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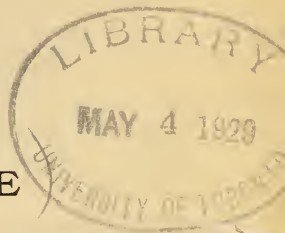
(THE SENATE OF CANADA)

PROCEEDINGS OF

(THE STANDING COMMITTEE

ON

(BANKING AND COMMERCE)

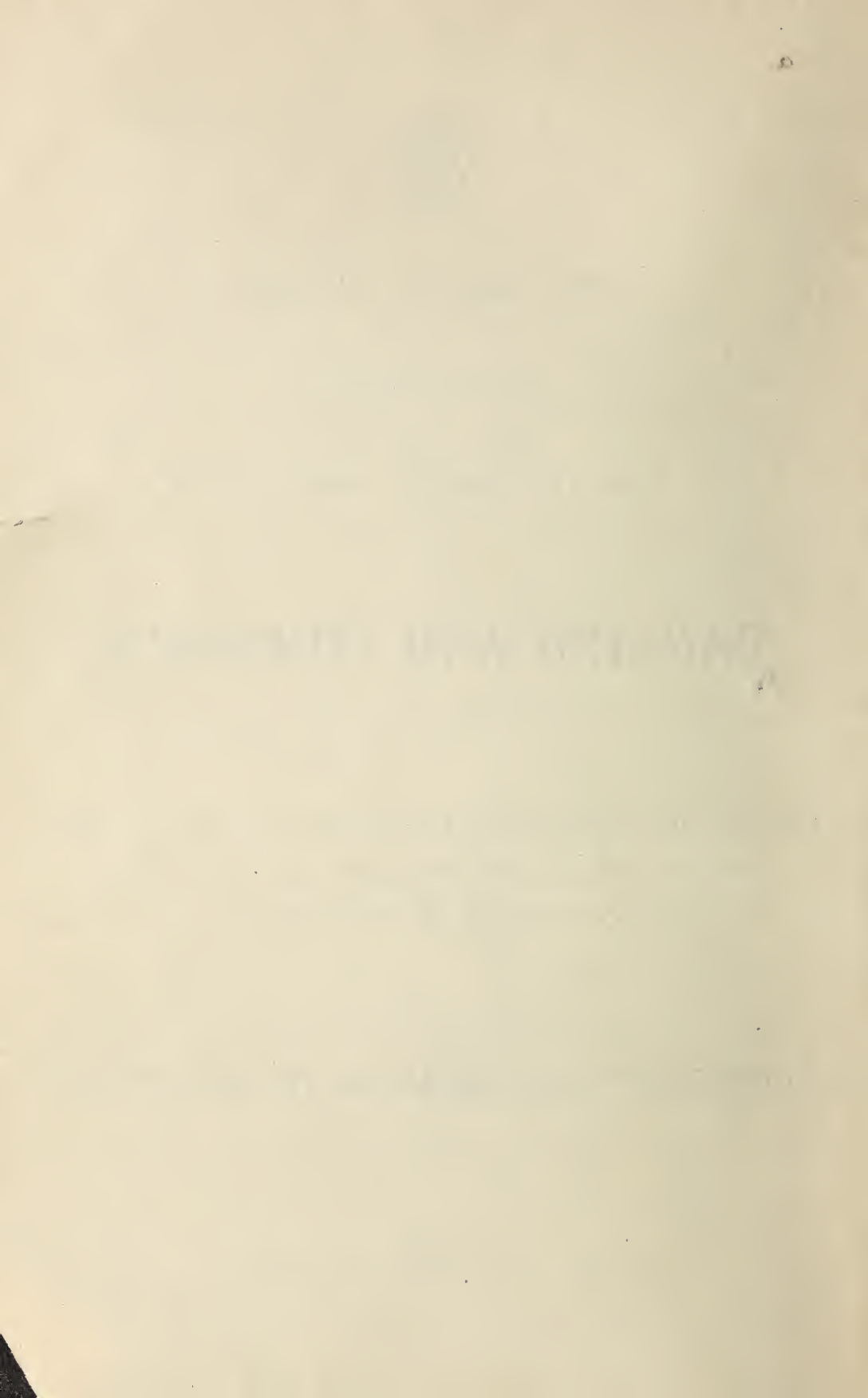


1929

COPIES OF PROVINCIAL LEGISLATION RESPECTING
PROSPECTUSES AND OTHERWISE FOR THE
PROTECTION OF THE PUBLIC

DIRECTED BY THE COMMITTEE TO BE PRINTED

OTTAWA
F. A. ACLAND
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1929



ONTARIO

THE COMPANIES INFORMATION ACT, 1928

1928, CHAPTER 33

An Act Respecting Information Concerning Companies

Assented to 3rd April, 1928

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Companies Information Act*, Short title.
1928, c. 33, s. 1.
2. In this Act,—

Inter-pretation.
"Company."

 - (a) "Company" or "corporation" shall include any public association, corporation, company, or other incorporated organization, whether acting as a trustee or not;
 - (b) "Syndicate" shall include any association, partnership, "Syndicate."
syndicate, or unincorporated organization, whether acting as a trustee or not;
 - (c) "Security" shall mean security as defined in *The Security "Security."*
Frauds Prevention Act, and regulations made thereunder.
1928, c. 33, s. 2.
3. (1) A prospectus containing such information as may from Prospectus
time to time be required by the Lieutenant-Governor in Council, to be filed by
verified as the Provincial Secretary may direct, together with the companies
fee prescribed in the order in council, shall be filed with the Pro- and syndi-
vincial Secretary by every company other than a private company cates.
and syndicate,

Prospectus
to be filed by
companies
and syndi-
cates.

 - (a) upon the establishment in Ontario of a head or other office, Ontario
and office.
 - (b) upon commencing any business in Ontario, or upon the sale Doing
in Ontario of any of its securities, and business,—
sale of
securities.
 - (c) upon any material change in any fact set forth in the last Change
prospectus filed, and in facts.
 - (d) upon the sale in Ontario of any issue of securities or any New issue.
part thereof other than that in respect of which a prospectus
has been filed.
- (2) Upon default in the filing of any such prospectus for a Penalty.
period of more than ten days after it should have been filed under
subsection 1, each director and officer of the company and each pro-
moter of the syndicate, and any person acting as a representative in
Ontario of an extra-provincial company or syndicate shall be liable
upon summary conviction to a penalty of \$20 for each day of such
default, and in default of payment thereof to imprisonment for a
term not exceeding three months.

Exceptions
as to com-
panies tax-
able under
Rev. Stat.
c. 29.
Rev. Stat.
c. 222.

Annual
return
of the cor-
poration.

(3) This section shall not apply to corporations liable to payment of tax under section 3 of *The Corporations Tax Act* or to an insurer licensed under *The Insurance Act*, except where such corporation or insurer is selling its treasury stock in Ontario either directly or through any person or company. 1928, c. 33, s. 3.

4. (1) On or before the 1st day of February in each and every year without notice or demand to that effect, every corporation incorporated under the laws of Ontario, and every other corporation having its head or other office or doing business or any part thereof, in the Province of Ontario, shall unless a corporation liable to payment of taxes under section 3 of *The Corporations Tax Act*, or unless an insurer licensed under *The Insurance Act*, make out, verify and deliver to the Provincial Secretary as hereinafter required, a detailed return containing as of the 31st day of December next preceding, correctly stated the following information and particulars:

Contents
of return.

- (a) The name of the corporation;
- (b) The jurisdiction under the laws of which the corporation was incorporated;
- (c) The manner in which the corporation is incorporated whether by special Act, or by letters patent or otherwise, and the date thereof;
- (d) Whether the existence of the corporation is limited, by statute or otherwise, and, if so, the period of its existence yet to elapse, and whether its existence may be lawfully extended;
- (e) Whether the corporation is a valid and subsisting corporation;
- (f) A concise and general statement of the nature of the business or objects of the corporation;
- (g) The names, residences and post office addresses of the president, secretary, treasurer, director, and manager of the corporation;
- (h) The name and post office address of the chief officer or manager in this Province;
- (i) The location of the head office of the corporation, giving the street and number when possible;
- (j) The location of the principal office in Ontario where the head office is situated outside of Ontario;
- (k) The date upon which the last annual meeting of the corporation was held;
- (l) The amount of the bond or debenture debt of the corporation;
- (m) A detailed statement of the real estate owned by it situated within the Province, where situate and the value thereof;

If share
capital.

And in the case of a corporation having share capital, in addition:

- (n) The amount of the capital stock of the corporation, and the number of shares into which it is divided;
- (o) The number of shares issued and allotted and the amount paid thereon;
- (p) The par value and if without par value, then the market value, or if there be no market value, the actual value of its shares of stock;
- (q) The total amount of shares issued as preference shares;

- (r) The total amount paid on such shares;
- (s) The total number and amount of share warrants and the names, residences and post office addresses of the persons to whom the same were issued;
- (t) The number of shares, if any, issued as consideration for any transfer of assets, goodwill, or otherwise, and the extent to which same are paid; if none are so issued, this fact to be stated;
- (u) Such other information as may be required by order-in-council, a copy of which order-in-council shall be published in the *Ontario Gazette*.

If the corporation is a mining company to which Part XI of *The Companies Act* is made applicable: If a mining company.
Rev. Stat.
c. 218.

- (v) The number of shares sold or otherwise disposed of at a discount or premium;
- (w) The rate at which such shares were sold or disposed of;
- (x) Whether a verified copy of the by-laws, if any, providing for the sale of shares at a discount or otherwise was sent to the Provincial Secretary;
- (y) The date or dates upon which such by-laws, if any, were passed and confirmed.

(2) A duplicate of such return with the affidavit of verification shall be posted up in a conspicuous position in the head or principal office in Ontario of the corporation on or before the 2nd day of February in each year, and may be inspected by any shareholder or creditor of the corporation; and the corporation shall keep the same so posted until another return is posted up under the provisions of this Act. Posting of annual return.

(3) The return of every corporation shall be verified by the affidavit of any two of the directors of the corporation. Verification thereof.

(4) The return so verified shall, on or before the 10th day of February next after the time hereinbefore prescribed for making the return, be transmitted to the Provincial Secretary, together with the fee prescribed by order-in-council. Transmission to Provincial Secretary.

(5) If a corporation makes default in complying with the provisions of this section, every director and officer of the corporation, and any person acting as a representative of an extra-provincial corporation shall be liable upon summary conviction to a penalty of \$20 for each day of such default and in default of payment thereof to imprisonment for a term not exceeding three months. Penalty of default.

(6) Corporations incorporated before the 1st day of July, 1907, under any Act repealed by *The Ontario Companies Act, 1907*, except chapter 191 of the Revised Statutes of Ontario, 1897, and Acts consolidated therewith for which that Act was substituted, shall make such returns under this section as are required from corporations without share capital. Corporations incorporated before July 1st, 1907, etc.
7 Edw. VII, c. 34.

(7) The Provincial Secretary may at his discretion and for good cause enlarge the time for making and delivering any such return. Provincial Secretary may enlarge time.

(8) No registrar of deeds or land titles officer shall register any instrument made by or in favour of, or purporting to confer any interest in land, whether by way of caution, certificate or otherwise, upon any corporation regarding which he shall have received notice Transfer to or by corporation in arrears not to be registered.

in writing from the Provincial Secretary that such corporation is in arrears in respect to any such return or any tax or fee payable with such return. 1928, c. 33, s. 4.

Provincial
Secretary
may require
returns.

5. The Provincial Secretary may at any time by notice require any company to make a return upon any subject connected with its affairs within the time specified in the notice, and upon default in making such return the directors of the company and any person acting as a representative of such company in Ontario shall be liable upon summary conviction to a penalty of \$20 for each day of such default, and in default of payment thereof to imprisonment for a term not exceeding three months. 1928, c. 33, s. 5.

Commence-
ment of
Act.

6. This Act shall come into force on a day to be named by the Lieutenant-Governor in his proclamation. 1928, c. 33, s. 6.

18 GEO. V. (ONT.), c. 34

AN ACT FOR THE PREVENTION OF FRAUD IN CONNECTION WITH THE SALE OF SECURITIES

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Security Frauds Prevention Act, 1928*.

Interpre-
tations.
"Broker."

2. In this Act—

(a) "Broker" shall mean every person other than a salesman who engages either for the whole or part of his time directly or through an agent in the business of trading in securities and shall include such officials of a company or partnership which trades in securities as may be designated by the Regulations.

"Company."

(b) "Company" shall include any association, corporation, company or other incorporated organization, whether acting as a trustee or not.

"Fraud."

(c) "Fraud," "fraudulent" and "fraudulent act" shall, in addition to their ordinary meaning, include:

(i) any intentional misrepresentation by word, conduct or in any manner of any material fact either present or past, and any intentional omission to disclose any such fact;

(ii) any promise or representation as to the future which is beyond reasonable expectation and not made in good faith;

(iii) any fictitious or pretended trade in any security;

(iv) the gaining or attempt to gain, directly or indirectly, through a trade in any security, a commission, fee or profit so large and exorbitant as to be unconscionable and unreasonable;

- (v) generally any course of conduct or business which is calculated or put forward with intent to deceive the public or the purchaser of any security as to the nature of any transaction or as to the value of such security;
 - (vi) the making of any material false statement in any application, information, material or evidence submitted or given to the Attorney-General, his representative or the Registrar under the provisions of this Act or the Regulations; or in any prospectus or return filed with the Provincial Secretary;
 - (vii) the violation of any provision of this Act or of the Regulations relating to the manner in which brokers or salesmen shall trade in securities and anything specifically designated in the Regulations as coming within the meaning of this definition;
 - (viii) any artifice, agreement, device or scheme to obtain money, profit or property by any of the means hereinbefore set forth or otherwise contrary to law.
- (d) "Person" shall mean an individual, partnership, association, syndicate and any unincorporated organization whether acting as a trustee or not. "Person."
- (e) "Registrar" shall mean the person appointed by the Lieutenant-Governor in Council to act as Registrar under the provisions of this Act and the Regulations. "Registrar."
- (f) "Regulations" shall mean the regulations made from time to time by the Lieutenant-Governor in Council under the provisions of this Act. "Regulations."
- (g) "Salesman" shall mean every person employed, appointed or authorized by any broker or company to trade in securities whether directly or through sub-agents. "Salesman."
- (h) "Security" shall, subject to the provisions of subsection 3 of section 3, include any document or instrument commonly known as a security, every documentary evidence of indebtedness or evidence representing or secured by some title to or interest in the capital, assets, property, profits, earnings or royalties of any person or company, evidence of membership in an association of heirs or evidence of any option upon a security and anything designated as a security by the Regulations. "Security."
- (i) "Trade" or "Trading" shall, subject to the provisions of subsection 3 of section 3, include any disposition of, transaction in, or attempt to deal in, sell or dispose of a security or interest in or option upon a security for any valuable consideration whether the terms of payment be upon margin, instalment or otherwise, and any underwriting of any issue or part of an issue of a security, and any act, advertisement, conduct or negotiation directly or indirectly in furtherance of any of the foregoing or specifically designated as "trade" or "trading" in the Regulations. "Trade."
- (j) "Trustee" shall mean a person, or a company, as the case may be, executing a trust expressly created by or declared in an instrument in writing other than a will or court order or judgment, where such trust is to carry on any business or to secure the payment or repayment of money. "Trustee."

PART I.

REGISTRATION OF BROKERS AND SALESMEN.

3. (1) No person shall,—

Brokers,
officials and
salesmen to
register.

- (a) trade in any security unless he is registered as a broker or salesman, or
- (b) act as an official of or on behalf of any partnership or company in connection with any trade in any security by the partnership or company, unless he or the partnership or company is registered as a broker.
- (c) act as a salesman of or on behalf of any partnership or company in connection with any trade in any security by the partnership or company, unless he is registered as a salesman,

and such registrations have been made in accordance with the provisions of this Act and the Regulations, and any violation of this section shall constitute an offence.

Partnership
or company
may be
registered.

(2) With the approval of the Attorney-General, any partnership or company may be registered as a broker, whereupon the partnership or company may trade in securities, and the members and officials of the partnership, and the officials of the company other than branch managers or salesmen of the partnership or company, may act as such without separate registration, and the provisions of this Act, and of the Regulations relating to registered persons or companies, shall be deemed to apply to such partnership or company.

Exemptions.

(3) Subsections 1 and 2 shall not apply to any person in respect of any of the following classes of trades or securities,—

Judicial
sales.

- (a) A trade in a security taking place at a judicial, executor's, administrator's, guardian's or committee's sale, or at a sale by an authorized trustee or assignee, an interim or official receiver or a custodian under *The Bankruptcy Act*, a receiver under *The Judicature Act*, or a liquidator under *The Companies Act* or *The Winding Up Act*.

R.S.C. cc.
11, 213.
(Dom.),
Rev. Stat.
cc. 88, 218.

Isolated
transactions
by owner.

- (b) An isolated trade in a specific security by or on behalf of the owner, for the owner's account, where such trade is not made in the course of continued and successive transactions of a like character.

Banks, etc.,
Crown,
municipal
and public
officials, and
registered
persons, etc.

- (c) A trade where one of the parties is a bank, loan company, trust company or insurance company, or is an official or employee, in the performance of his duties as such, of His Majesty in right of the Dominion or any province or territory of Canada or of any municipal corporation, or public board or commission in Canada or is registered as a broker under the provisions of this Act.

Sale by
pledgee for
debt.

- (d) A trade by or for the account of a pledgee or mortgagee for the purpose of liquidating a *bona fide* debt by selling or offering for sale or delivery in good faith in the ordinary course of business a security pledged in good faith as security for such debt.

Stock
dividends,
etc.

- (e) The distribution, issuance or sale by a company exclusively to the holders of its securities of capital stock, bonds or other securities as a stock dividend or other distribution out of earnings or surplus, or in the process of a *bona fide* re-

organization of the company, or of additional capital stock where no commission or other remuneration is paid or given in connection therewith.

- (f) The exchange by or on account of one company with another company of its own securities in connection with a consolidation, amalgamation or merger of either company. Exchange on merger.
- (g) A trade in good faith by an actual prospector of security issued by him for the purpose of financing a prospecting expedition, or for the purpose of disposing of any of his interest in a mining claim or property staked by or wholly or partly owned by him. Prospector's "grubstake" or share in claim.
- (h) Securities in which trust funds may lawfully be invested in Ontario. Trust.
- (i) Bonds or notes secured by mortgage upon real estate or tangible personal property where the entire mortgage, together with all of the bonds or notes secured thereby are sold at the one time. Secured bonds.
- (j) Negotiable promissory notes or commercial paper maturing not more than a year from the date of issue. Negotiable paper.
- (k) Securities evidencing indebtedness due under contract made pursuant to the provisions of any statute of any province of Canada providing for the acquisition of personal property under conditional sales contracts. Securities based upon conditional sales.
- (l) Securities issued by a person or company organized exclusively for educational, benevolent, fraternal, charitable, or recreational purposes and not for pecuniary profit, where no part of the net earnings thereof enure to the benefit of any security holder. Shares of non-profit-sharing companies.
- (m) Any class of trade or security specifically exempted from the application of subsections 1 and 2 of this section by the Regulations. Trades or securities exempted by Regulations.

4. (1) Unless the Attorney-General otherwise directs the Registrar may within ten days after the receipt by him of any application for registration cause to be entered in a book kept for such purpose and open to public inspection, hereinafter called the "Register," the name and address for service of such applicant, whereupon such applicant shall be deemed to be registered as a broker or salesman as the case may be. Registration within ten days unless Attorney-General objects.

(2) The Registrar may upon the direction of the Attorney-General or his representative authorized in writing cause a temporary entry to be made, designated as such, in the register, subject to cancellation at any time upon the order of the Attorney-General. Temporary registration.

(3) Registrations shall expire, and may be changed or renewed as the Regulations shall provide. Expiration, change and renewal of registration.

5. (1) Every application under this Act or the Regulations shall be made in writing upon the forms provided by the Registrar, and shall be accompanied by the fee prescribed by the Regulations and such bond as may be required. Application to be upon forms with proper fees and bonds.

(2) Every applicant, whether domiciled in Ontario or not, shall state in every application an address for service in Ontario, and all notices under this Act or the Regulations and all legal process issued by or on behalf of any person or company shall be sufficiently served for all purposes if posted by registered mail to the applicant at the Address for service.

latest address for service so stated, and in the case of a non-registered company where the officials are registered to the latest address of the person registered as the senior official of such company in Ontario.

Further in-
formation.

(3) The Registrar may from time to time and shall when so directed by the Attorney-General require any further information or material to be submitted by any applicant or any registered person or company within a specified time limit and may require verification by affidavit or otherwise of any matter then or previously submitted.

\$500 bond
by every
broker and
applicant.

6. (1) Every applicant for registration as a broker shall before registration submit a bond by the applicant or the person or company he represents as the Registrar may require, such bond to be in the sum of \$500 and in such form and upon such condition as the Regulations shall prescribe.

Bond
by a surety
company if
required.

(2) The Registrar may and when so directed by the Attorney-General shall require any applicant or any registered person or company within a specified time limit to deliver a bond by a surety company approved by the Attorney-General in such form and upon such condition as the Regulations shall prescribe, and in such amount as the Regulations or the Attorney-General shall require.

New bond.

(3) The Registrar may and when so directed by the Attorney-General shall require a new bond of the kind mentioned in subsections 1 or 2 to be filed within a specified time limit.

Forfeiture
of bonds.

7. (1) Any bond mentioned in section 6 shall be forfeit and the sum named therein shall become due and owing by the person or company bound thereby as a debt to His Majesty in right of the Province of Ontario when there has been filed with the Registrar the Attorney-General's certificate that the person or company in respect of whose conduct the bond is conditioned, or any official, employee or salesman of such company has, in connection with a trade in a security, been,—

\$500 bond.

(a) in the case of the bond mentioned in subsection 1 of section 6,

(i) charged with any criminal offence, or,

(ii) found upon investigation by the Attorney-General or his representative to have committed a fraudulent act, or

Bond
by surety
company.

(b) in the case of the bond mentioned in subsection 2 of section 6,

(i) convicted of a criminal offence, or

(ii) convicted of an offence against any provision of this Act or the Regulations, or

(iii) enjoined by the Supreme Court or a Judge thereof otherwise than by an interim injunction.

Assignment
of bond or
payment of
monies to
creditors.

(2) The Attorney-General may assign any bond forfeited under the provisions of subsection 1, or may pay over any moneys required thereunder to any person, or to the accountant of the Supreme Court in trust for such persons and companies as may become judgment creditors of the person or company bonded, or to any trustee, custodian, interim receiver, receiver or liquidator of such person or company as the case may be, such assignment or payment over to be in accordance with and upon conditions set forth in the Regulations or in any special order of the Lieutenant-Governor in Council.

8. (1) The Attorney-General may order that,—

(a) any application for registration, renewal or change of registration shall or shall not be granted for any reason which he may deem sufficient, or that

Attorney-General's orders concerning applications.

(b) the application of any person for registration shall not be granted where it appears that such person proposes to use or is using a trading name other than his own, or that of his partner, where such trading name is apt to lead the public to believe it is that of a business firm of longer established standing in Ontario, or is calculated to conceal from the public the identity of the applicant, or is for any reason objectionable, or that

Deceptive names.

(c) any temporary entry in the register shall be made, suspended or cancelled for any reason which he may deem sufficient, or that

Temporary entries.

(d) the registration of any person or company shall be suspended for any period or cancelled by reason of default in filing a bond when required under the provisions of subsections 2 and 3 of section 6, or that

Suspension or cancellation for default.

(e) the registration of any person or company shall be suspended as provided in section 10,

Suspension under Part II.

and no order of the Attorney-General shall be subject to review in any way in any court.

(2) The Registrar upon receiving any order of the Attorney-General suspending or cancelling any registration shall cause immediate entry thereof to be made in the register whereupon the suspension or cancellation shall become effective forthwith, but notice thereof and of the refusal of any application shall be sent to the person or company concerned.

Entry or suspension or cancellation.

(3) Notwithstanding any order of the Attorney-General a further application may be made upon new or other material or where it is clear that material circumstances have changed.

Further applications.

PART II

INVESTIGATION AND ACTION BY THE ATTORNEY-GENERAL

9. (1) The Attorney-General, or any person to whom as his representative he may in writing delegate such authority, may examine any person or thing whatsoever at any time in order to ascertain whether any fraudulent act, or any offence against this Act or of the Regulations has been, is being, or is about to be committed, and for such purpose shall have the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath and to produce documents, records and things as is vested in the Supreme Court or a Judge thereof for the trial of civil cases, save that no person shall be entitled to claim any privilege in respect of any evidence or document, record or thing, sought to be given or produced, on the ground that he might be incriminated or exposed to a penalty thereby.

Investigation by Attorney-General.

(2) The failure without reasonable excuse of any person or company to furnish information required by the Registrar under Part I within the time limited, or the failure without reasonable excuse of any person summoned for examination under subsection 1 to

Failure to give information, etc., an offence and also *prima facie* evidence.

appear or his refusal to give evidence, or to answer any question, or the failure without reasonable excuse or refusal of any person or company to produce anything where the evidence, answer or production would be required in an action shall constitute an offence and shall also be *prima facie* evidence upon which,—

- (a) the Attorney-General, or his representative, may base an affirmative finding concerning any fraudulent act to which he may deem it relevant, or
- (b) the Supreme Court, or a Judge thereof, may grant an interim or permanent injunction, or
- (c) a police magistrate may base a conviction for an offence against this Act or the Regulations.

Evidence
not to be
disclosed.

(3) Disclosure by any person other than the Attorney-General, his representative or the Registrar, without the consent of any one of them, of any information or evidence obtained or the name of any witness examined or sought to be examined under subsection 1 shall constitute an offence.

Attorney-
General
may

10. If the Attorney-General or his representative upon investigation finds that any fraudulent act, or that any offence against this Act or the Regulations, has been, is being, or is about to be committed, the Attorney-General

suspend
for over
ten days

- (a) may where a registered broker, company or salesman is in his opinion concerned therein, order that the broker, company or salesman and any other registered broker, company or salesman connected with the same organization, be suspended from registration for any period not exceeding ten days, or

and proceed
by injunction.

- (b) may where he considers a suspension for ten days inadequate, or where any unregistered person or company is in his opinion concerned in such fraudulent act or in such offence, proceed under the provisions of section 11, or, otherwise under this Act or the Regulations, or

Notice
of fraud.

- (c) may give notice of the fraudulent act to the public by advertisement or otherwise or to any individual by letter or otherwise, whenever he deems it advisable.

Supreme
Court or
Judge may
enjoin from
trading in
securities.

11. (1) The Supreme Court or any Judge thereof is hereby empowered upon the application of the Attorney-General, where it is made to appear upon the material filed or evidence adduced that any fraudulent act, or any offence against this Act or the Regulations has been, is being or is about to be committed may by order enjoin,—

- (a) any registered broker, company or salesman or any person of company implicated with any of them in the same matter from trading in any security whatever absolutely or for such period of time as shall seem just, and any such injunction shall *ipso facto* suspend the registration of any registered person or company named in the order during the same period, or
- (b) any person or company from trading in any security whatever, or in any specific security, or from committing any specific fraudulent act or series of fraudulent acts absolutely or for such period of time as shall seem just.

(2) The application of the Attorney-General under subsection 1 may be made without any action being instituted, either,— Application may be *ex parte*

- (a) by an *ex parte* motion for an interim injunction which shall, if granted, remain in full force for ten days from the date thereof unless the time is extended or the originating motion mentioned in clause *b* hereof is sooner heard and determined, or
- (b) by an originating notice of motion, which, if an interim injunction has been granted, shall be served within five and returnable within ten days from the date of such interim injunction. or by originating notice.

(3) Any information, evidence, exhibit or thing obtained by the Attorney-General or his representative or the Registrar under the provisions of this Act or the Regulations, or copies thereof, certified by the Attorney-General or the Registrar shall, so far as relevant, be receivable in evidence for all purposes in any action, proceeding or prosecution and, in proceedings under this section only, the evidence of a witness may be used against him notwithstanding anything in *The Evidence Act* contained. Evidence.

Rev. Stat.
c. 107.

12. (1) The Attorney-General may,—

- (a) when he is about to examine or during or after the examination of any person or company under the provisions of section 9, or
- (b) when he is about to apply for or has applied for or has obtained an injunction interim or otherwise against any person or company under the provisions of section 11, or
- (c) where criminal proceedings which in his opinion are connected with or arise out of any security or any trade therein, or out of any business conducted by the accused are about to be or have been instituted against any person,

Attorney-General may order funds, etc., to be held.

in writing or by telegram direct any person or company having in Ontario on deposit or under control or for safe keeping any funds or securities of the person or company so to be or actually examined, enjoined or charged, to hold such funds or securities in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the provisions of *The Bankruptcy Act*, *The Judicature Act*, *The Companies Act* or *The Winding Up Act*, or until the Attorney-General in writing revokes such direction or consents to release any particular fund or security from such direction, and failure without reasonable excuse by any person or company to comply with any such direction shall constitute an offence, provided that no such direction shall apply to funds or securities in a stock exchange clearing house nor to securities in process of transfer by a transfer agent unless such direction expressly so states, and in the case of a bank, loan or trust company the direction shall only apply to the offices, branches or agencies thereof named in the direction.

Proviso.

(2) Any person or company in receipt of a direction given under subsection 1, if in doubt as to the application of such direction to any funds or security, or in case of a claim being made thereto by any person or company not named in such direction, may apply to the Supreme Court or a judge thereof who may direct the disposition of such fund or security and may make such order as to costs as may seem just. Application for direction.

May take
bankruptcy
proceedings,
etc.

R.S.C., cc.
11, 215.
(Dom.),
Rev. Stat.
cc. 88, 218.

(3) The Attorney-General, whenever His Majesty becomes a creditor of any person or company in respect of a debt to the Crown arising from the provisions of sections 6 and 7, may take such proceedings as he shall see fit under *The Bankruptcy Act*, *The Judicature Act*, *The Companies Act* or *The Winding Up Act* for the appointment of an interim receiver, custodian, trustee, receiver or liquidator as the case may be.

PART III

GENERAL PROVISIONS

Judge
not *persona*
designata

13. (1) A judge of the Supreme Court in exercising any of the powers conferred upon such judge by this Act shall be deemed so to act as a judge of such court and not as *Persona designata*.

nor
Attorney-
General.

(2) The Attorney-General shall in all proceedings under this Act or the Regulations be deemed to be acting as the representative of His Majesty in the right of the Province of Ontario, and not as *persona designata*.

Judicature
Act and
Rules apply
Rev. Stat.,
c. 88.

(3) The provisions of *The Judicature Act* and the Consolidated Rules of Practice and Procedure made thereunder so far as they are applicable to proceedings of a like nature, including those relating to appeals and to the enforcement of judgments and orders, shall apply to every proceeding before the Supreme Court or a judge thereof under the provisions of this Act, save that service of notices and other legal process shall be in accordance with subsection 2 of section 5 and save that costs may be awarded to but not against the Attorney-General.

No action
etc., against
persons ad-
ministering
this Act.

14. No action whatever, and no proceedings by way of injunction, mandamus, prohibition or other extraordinary remedy shall lie or be instituted against any person whether in his public or private capacity or against any company in respect of any act or omission in connection with the administration or carrying out of the provisions of this Act or the Regulations where such person is the Attorney-General or his representative, or the Registrar or where such person or company was proceeding under the written or verbal direction or consent of any one of them, or under an order of the Supreme Court or a judge thereof made under the provisions of this Act.

Regulations,
general
powers.

15. The Lieutenant-Governor in Council may make and from time to time amend, alter or repeal regulations not inconsistent with this Act for the better carrying out of the provisions of this Act, for the more efficient administration thereof and for the prevention of fraud in trading in securities whether upon any stock exchange or elsewhere in Ontario, for the creation of offences, and for any other purpose elsewhere indicated in this Act, and all such regulations and any amendment, alteration or repeal thereof shall become effective in all respects as if enacted in this Act upon the publication thereof in the *Ontario Gazette*.

Penalties.

16.—(1) Every person who violates any provision of this Act or the Regulations designated as an offence, or who does any fraudulent act not punishable under the provisions of the Criminal Code of Canada, shall be liable upon conviction thereof under *The Summary*

Convictions Act to a penalty of not more than \$1,000 for a first offence, nor \$2,000 for a second or subsequent offence, and in case of either a first or a subsequent offence either in default of payment of any penalty imposed, or in addition to such penalty, to imprisonment for a term not exceeding six months. Rev. Stat. c. 121.

(2) The provisions of subsection 1 shall be deemed to apply *mutatis mutandis*, to any company save that the money penalties may be increased in the discretion of the magistrate to a sum not exceeding \$25,000. Companies.

(3) No proceedings under this section shall be instituted except with the consent or under the direction of the Attorney-General. Consent of the Attorney-General required. Expenses. Rev. Stat. c. 25.

17. Section 17 of *The Audit Act* shall apply in respect of any legislative appropriation for the administration of this Act.

18. This Act shall come into force on a day to be named by the Lieutenant-Governor by his proclamation. Commencement of Act.

REGULATIONS MADE UNDER THE SECURITY FRAUDS PREVENTION ACT, 1928

PART I

DEFINITIONS

1. The interpretation provisions of the Act, as extended or amended from time to time by regulation, shall apply to these regulations. Interpretation sections of Act apply.

2. "Act" shall mean *The Security Frauds Prevention Act, 1928*. The Act.

3. "Non-brokerage" as applied to a company or unincorporated organization means that registration is sought to authorize trading in securities of its own issue and not general trading with the public in other securities. Non-brokerage.

4. "Official" wherever used in the Act and regulations shall include the president, vice-president, secretary, treasurer, general manager, department and branch office managers, and all other officers acting in a similar capacity whether so designated or not. Official.

5. "Security" in addition to the definition contained in clause (h) of section 2 of the Act shall, without in any way restricting the generality of such definition, include any bond, debenture, share, stock, note, unit, unit certificate, any participation certificate, certificate of share or interest, preorganization certificate or subscription, certificate of share or interest in a trust estate or association, profit-sharing agreement or certificate, certificate of interest in an oil, gas or mining lease, claim or royalty voting trust certificate, collateral trust certificate, income or annuity contract not issued by an insurance company, bankers' share, trustees' share, investment contract, investment participating bond, or investment trust debenture, bond, debenture, share, stock note, unit or certificate bond upon any security whether any of the foregoing relate to a person, proposed company or company as the case may be. Security.

Trade.
Trading.

6. "Trade" or "Trading" in addition to the definition contained in clause (i) of section 2 of the Act, shall without in any way restricting the generality of such definition, include participation as a floor trader in any transaction in a security upon the floor of any stock exchange, and also any receipt by broker or salesman of an order to buy or sell a security, whether the order is received over the telephone or in person and whether the recipient receives such order as a broker or salesman or on behalf of a broker.

PART II

EXEMPTIONS

Exemptions.

11. Subsections 1 and 2 of section 3 of the Act shall not apply to any person in respect to any of the following classes of trades or securities:

Securities
sold at one
time.

(1) Securities secured by mortgage upon real estate or tangible personal property where all of the securities secured thereby are sold at the one time.

Non-
trading
employees'
transactions.

(2) Trades in securities which may occasionally be transacted by employees of a registered broker (whether individual, partnership or company) where such employees do not usually sell securities to the public and have been temporarily designated by the Registrar as "non-trading" employees, either individually or as a class.

PART III

REGISTRATION, ETC.

Forms of
applications.

12. The forms of application shall be as prescribed from time to time by the Registrar, and shall be printed in triplicate, each set being numbered, the various classes of forms being printed on paper of different colours as indicated below:

Broker (Brokerage), Triplicate Blue Form A
(Individual, partnership or company or official thereof).

Broker (Non-brokerage) (Company, unincorporated organization or official of either). Triplicate Brown Form B

Salesman... Triplicate Salmon Form C

Forms
of Bonds.

13. The bonds mentioned in subsection 1 of section 6 of the Act, hereinafter called "\$500 bonds," and the bonds mentioned in subsection 2 of the said section, hereinafter called "surety bonds," shall be in Forms D and E respectively attached to these regulations, and shall be conditioned as therein set forth and printed in the sets and colours of paper indicated below:

\$500 Bond... Duplicate Gray Form D
Surety Bond... Triplicate Green Form E

14. Every request for registration shall be made by letter to the Registrar, enclosing a certified cheque, money order or postal note, made payable to the Provincial Treasurer of Ontario, for the fee, which shall be \$5.00 in the case of a salesman whose employer is or is to be registered, and \$25.00 in all other cases, and shall state whether registration is sought for brokerage trading as an individual, partnership, company or official thereof, or for non-brokerage trading, as a company, unincorporated organization, or official thereof, or for trading as a salesman, and the salesman shall also state the name and address of his employer and whether the employer has applied or will apply for registration.

Request
for forms.

Fees.

15. The Registrar shall cause a receipt, together with proper forms, to be sent to every applicant forthwith, including in the case of every applicant other than a salesman, the \$500 bond forms, and in the case of a salesman whose employer has not applied for registration or is in the opinion of the Registrar unlikely to do so, the surety bond forms, and the applicant shall when the application forms are completed and the bonds executed return to the Registrar the application in duplicate and an original bond.

Return
of forms.

16. Applicants for registration whose officials or employees must also be registered as brokers or salesmen may in the letter mentioned in Regulation 14 make application on behalf of such officials or employees, naming them, and may enclose a single cheque to cover all fees setting forth in the letter the amount paid by each, but the forms shall be completed by each official or employee.

Employers
may ask for
registra-
tion of
employees.

17. Application forms completed for registration shall be deemed to have been first received by the Registrar on the date of receipt stamped thereon in his office, and he shall forthwith send one of the duplicate applications to the Attorney-General, and satisfy himself that all questions have been properly answered and that any bond has been properly executed.

Receipt of
applications.

18. (a) The Register shall consist of an alphabetically indexed book in which sheets may readily be inserted comprising four separate parts and indices, Part I and Part II being for brokers, Part III for salesmen and Part IV for suspensions and cancellations.

Registra-
tions of.

(b) In Parts I and II shall be entered the names of brokers or such officials as must be registered separately, together with the application number, the latest address for service and other matters, and where the person registered is an official, the name of the organization, partnership or company he represents and the name and address of the senior official in Ontario.

(c) In Part III shall be entered the name of each salesman, his application number, the name of his employer, the salesman's latest address for service, and other matters.

Salesman.

(d) In Part IV shall be entered the name of the broker or salesman whose registration is suspended or cancelled, the application number, the date of the order of suspension or cancellation, by whom it was made, and the termination of the suspension and the fact of such suspension or cancellation, shall also be indicated by writing the word "suspended" or "cancelled," as the case may be, in red ink opposite the name in the brokers' or salesmen's part of the Register, and upon the termination of such suspension all entries in the Register relating thereto shall be ruled out in green ink.

Suspensions
and cancel-
lations.

Temporary entries.

19. Where a temporary entry is authorized the proper particulars shall be entered in the Register, followed by a capital "T," which shall be ruled out in green ink when the entry is made a full registration.

Lists of officials and employers.

20. Where officials or salesmen of any registered broker also registered a complete list of such officials or salesmen with their application numbers shall be kept with the file of such registered broker and such list shall be kept up to date by the brokers employing them.

Files.

21. The application and other papers of each applicant shall be filed in accordance with the application number, and the name of every applicant, with the application number and of every partnership or company, non-brokerage or brokerage, of which an official is separately registered, with cross-references to the name of such official, shall be entered alphabetically in a general index book.

Disposition of fees.

22. The Registrar shall cause all cheques, money orders and postal notes to be deposited with the Provincial Treasurer daily to the credit of the Consolidated Revenue Fund.

Refunds.

23. The Registrar shall where any application is refused make a refund to the applicant of the amount of the fee which accompanied the application, but no refund shall be made where there has been a temporary registration.

Lapse of registration.

24. Registration under the Act shall lapse on the 31st day of October.

25. Every registered person or company shall apply by letter to the Registrar for,—

Changes.

(a) change in registration whenever any change takes place in the members of the partnership or directors or officials of the company set forth in the latest application form on record, giving full particulars of the change, and enclosing an alteration fee of \$1 by certified cheque, money order or postal note, or for

Renewals.

(b) renewal of registration on or before the 21st day of October, giving full particulars of any change which there will be on the 31st day of October, in the facts set forth in the latest application form on record, and enclosing the proper fee as upon a first application,

and the Registrar shall cause such change in or renewal of registration to be made unless in his opinion such changes have or will have occurred as have altered or will alter the circumstances in respect of which registration was previously granted so materially that an entirely new application is required, in which case the Registrar shall so notify the applicant who shall thereupon proceed as if upon a new application, and a salesman who has changed his employer, shall always be required to make a new application.

Change of salesman's employer material.

Registration not to be advertised, etc.

26. No registered person or company shall hold himself or itself out as registered, either directly or indirectly, nor exhibit to any of the public any letter, receipt or copy thereof received from the Registrar, nor advertise the registration in any way, save to state to inquirers the name in which such registration stands and the number of the application form sent to the Registrar, and any violation of this regulation shall constitute an offence.

27. The Registrar may, with the approval of the Attorney-General or his representative, designate as "non-trading" any employee or class of employees of a registered broker (whether an individual, partnership or company) not usually selling securities to the public, but such designation shall be temporary only and shall be cancelled at any time as to any employee or class of employees whenever the Registrar or the Attorney-General or his representative is satisfied that any such employee or member of any such class of employees should be required to apply for registration as a salesman, whereupon notice thereof with proper application forms shall be sent to the employer.

Designation
of non-
trading
employee
may be
cancelled.

\$500 BOND UNDER THE SECURITY FRAUDS PREVENTION ACT, 1928

KNOW ALL MEN BY THESE PRESENTS, that I/we

(insert the name of individual, partners)

(or company, as the case may be)

of the of in the of
 Obligor, am/are/is held and firmly bound unto
 His Majesty the King in the right of the Province of Ontario,
 Obligee, in the penal sum of Five Hundred Dollars (\$500) to be
 paid to the said Obligee or to his heirs, successors or assigns, for
 which payment well and truly to be made, I/we/the said Company
 bind my/our/its self, my/our heirs, executors and administrators
 [its successors and assigns] firmly by these presents.

SEALED with my our seal, and dated this day of

. 19

SEALED with the corporate seal of the Obligor, attested by the
 hands of its proper officers in that behalf, and dated this . . . day of

. 19

WITNESS:

.

NOW THE CONDITION of the above written obligation is such that if the said Obligor shall at all times hereafter well and truly comply with the provisions of the criminal law in force in the Province of Ontario and with the provisions of *The Security Frauds Prevention Act, 1928*, and the regulations made thereunder, and if the Obligor be not charged at any time hereafter with any criminal offence, nor be found by the Attorney-General of Ontario or his representative upon investigation under the said Act to have committed any fraudulent act, then the above written obligation shall

be void, but otherwise shall be and remain in full force and virtue, and shall be forfeit in the manner provided by the provisions of section 7 of the said Act.

SIGNED, SEALED AND DELIVERED
in the presence of

}

SURETY BOND UNDER THE SECURITY FRAUDS PREVENTION ACT, 1928

KNOW ALL MEN BY THESE PRESENTS, that...
.....
(full corporation name)

.....
of the.....of.....in the.....of
....., is held and firmly bound unto His Majesty the
King in the right of the Province of Ontario, in the penal sum of...
....., to be paid to His said
Majesty or to his heirs, successors or assigns, for which payment well
and truly to be made, the said Company binds itself, its successors and
assigns firmly by these presents.

SEALED with the corporate seal of the said Company attested by
the hands of its proper officers in that behalf, and dated this.....
day of.....19...
WITNESS:

.....
Now THE CONDITION of the above written obligation is such that
if.....upon and after registration as a
.....under *The Security Frauds
Prevention Act, 1928*, and Regulation made thereunder, shall at all
times hereafter well and truly comply with the provisions of the
criminal law in force in the Province of Ontario and with the pro-
visions of the said Act and Regulations, and if the said.....
.....
be not convicted at any time hereafter of any criminal offence and
if the said.....be not con-
victed at any time hereafter of any offence against any provision of
the said Act or the Regulations, and if the said
.....be not enjoined
under the said Act by the Supreme Court or a judge thereof, other-

wise than by an interim injunction, then the above written obligation shall be void, but otherwise shall be and remain in full force and virtue and shall be forfeit in the manner provided by the provisions of Section 7 of the said Act.

SIGNED, SEALED AND DELIVERED
in the presence of:

}

AN ACT TO AMEND THE SECURITY FRAUDS PREVENTION ACT, 1928

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Security Frauds Prevention Act, 1929*. Short title

2. Subsection 2 of section 6 of *The Security Frauds Prevention Act, 1928*, is amended by inserting after the word "Attorney-General" in the fourth line the words "or any other bond." 1928,
c. 34, s. 6,
subs. 2,
amended.

3. (1) Section 7 of the said Act is amended by adding thereto the following subsection:

1928,
c. 34, s. 7,
amended.

(1a) Any bond mentioned in section 6 shall be forfeit and the sum named therein shall become due and owing by the person or company bound thereby as a debt to His Majesty in right of the Province of Ontario when there has been filed with the Registrar a certificate signed by the Attorney-General that proceedings by or in respect of the person or company in respect of whose conduct the bond is conditioned have been taken,—

Forfeiture
upon bank-
ruptcy or
winding up
proceedings.

(a) under the *Bankruptcy Act*, or

(b) in the case of a company, by way of winding up.

(2) Subsection 2 of the said section is amended by deleting the words "subsection 1" in the second line and substituting therefor the words "subsection 1 and 1a." 1928, c. 34,
s. 7, subs. 1,
amended.

4. Subsection 1 of section 8 of the said Act is amended by adding thereto the following clause:

1928, c. 34,
s. 8, subs. 1,
amended.

(bb) any permanent entry in the register shall be cancelled upon,—

Permanent
entries.

(i) any proceedings being taken by or in respect of the registered person or company under the *Bankruptcy Act* or in the case of a registered company, by way of winding up, or

- (ii) suspension from any stock exchange of any registered person or the representative upon any stock exchange of any registered company.

5. Section 12 of the said Act is amended by adding thereto the following subsection:

- (2a) In any of the circumstances mentioned in clauses (a), (b) or (c) of subsection 1, the Attorney-General may in writing or by telegram notify any Registrar of Deeds or Master of Titles or any Local Master of Titles or any Mining Recorder that proceedings are being or are about to be taken which may affect land or mining claims belonging to the person or company referred to in the said notice which notice shall be registered against the lands or claims mentioned therein and shall have the same effect as the registration of a certificate of *lis pendens*, save that the Attorney-General may in writing revoke or modify such notice.

6. Section 16 of the said Act is amended by adding thereto the following subsection:

- (2a) Where any company is convicted under this Act the magistrate may direct that, in default of payment of the penalty imposed, proportionate parts thereof shall be paid by such officers, directors, officials or employees of the company, and in such amounts as he shall designate, and in default of payment by any person so designated the magistrate may impose a penalty of imprisonment for a term not exceeding six months.

7. The said Act is further amended by adding thereto the following section:

- 16a. Where in consequence of an investigation under Part II of this Act, any person or company has been,—
- (a) convicted of a criminal offence; or
 - (b) convicted of an offence against any provision of this Act or the Regulations; or
 - (c) enjoined by the Supreme Court or a judge thereof otherwise than by an interim injunction,
- the Attorney-General may certify in writing as to the costs of the investigation and shall be entitled to take such proceedings as are available to a judgment creditor for the collection from such person or company of the sum set forth in such certificate, which sum shall be a debt to His Majesty in right of the Province of Ontario.

8. The said Act is further amended by adding thereto the following sections which shall constitute Part IV of the said Act.

PART IV.

AUDIT, ACCOUNTS, INFORMATION.

19. (1) In this Part:

- (a) "Brokers' Auditor" shall mean an accountant whose name is on the panel of accountants approved by an executive committee.

1928,
c. 34, s. 12,
amended.
Notice to
Registrars
of Deeds or
Masters of
Titles.

1928,
c. 34, s. 16,
amended.
Apportion-
ment of
penalty on
company
among
officers, etc.

1928, c. 34,
amended.

Collection of
costs of in-
vestigation.

1928, c. 34,
amended.

Inter-
pretation
"Brokers'
Auditor."

- (b) "Exchange Auditor" shall mean an accountant other than a brokers' auditor and not in any way connected with a brokers' auditor and who is employed upon full time by an executive committee. "Exchange Auditor."
- (c) "Executive Committee" shall include the board of directors, managing committee or other governing committee of a stock exchange in Ontario. "Executive Committee."
- (2) Any executive committee may from time to time select a panel of accountants each of whom shall have practised as such in Ontario for not less than five years and shall be known as a brokers' auditor, and may also employ an exchange auditor. Panel of brokers' auditors.
Exchange auditor.
- (3) The executive committee shall allot to each brokers' auditor the persons or companies, whether members of or represented upon the exchange, which are to be audited by him, and all of the expenses of every audit are to be paid to the brokers' auditor by the executive committee, subject to full repayment forthwith by the person or company audited, and until such repayment is made the executive committee shall have a lien upon the seat belonging to or controlled by the person or company so indebted to the executive committee. Allotment of audits.
- (4) Every brokers' auditor shall at least twice in each year make a complete audit of the business and affairs of each person or company allotted to him, such audit to be made at irregular intervals, supplemented by such partial audits as the auditor may deem advisable or the executive committee may direct, but no warning or notice shall in any way be given of any such whole or partial audit. Duties of auditor.
- (5) The executive committee of a stock exchange may at any time require any brokers' auditor upon the panel of accountants of the exchange to make any general or special audit or report upon the whole or any aspect of the business or affairs of any person or company who is or has been a member of or in any way represented upon the exchange. Special audit.
- (6) Every brokers' auditor, for the purpose of any audit under the provisions of this section shall be entitled to free access to all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person or company being audited, and any person or company withholding, destroying, concealing or refusing to give any information or thing reasonably required by the auditor for the purpose of his audit, shall be guilty of an offence. Powers of auditors.
- (7) Every brokers' auditor during or upon the completion of every audit under the provisions of this section shall send a copy of every report whether interim or final to the exchange auditor and shall in addition specially report to such auditor any particular information which may be required under the by-laws, rules or regulations of the exchange and any further information which the brokers' auditor deems it to be in the public interest so to report, and the exchange auditor shall summarize all information so received, and report thereon to the executive committee for Auditors' reports.

scrutiny, identifying the person or company affected thereby by number only until the executive committee decides to take action in respect of any such person or company.

Power
to examine.

- (8) Any person designated in writing by an executive committee may examine under oath any member of the exchange or any officer of any company represented thereon, or any associate or employee of any such person or company upon any matter arising out of any report of a brokers' auditor and for the purposes of such inquiry the person so designated shall have all the powers which may be conferred upon a commissioner under *The Public Inquiries Act*.

Change of
accounting
system.

- (9) Any executive committee may in writing, require any person or company whose affairs have been audited or are being audited to alter, supplement or replace any system of book or record keeping in any manner.

Failure
to comply.

- (10) Failure by any person or company, a member of or represented upon any stock exchange, to comply with any requirement of the executive committee of the exchange, or any person designated by it under subsection 8 hereof, shall constitute an offence and shall entitle the executive committee to suspend such person or member representing such company for such period as the said committee shall determine.

No action
against
auditors, etc.

- (11) No action shall lie against any executive committee or any member thereof, or any person designated by it under subsection 8 hereof, or against any brokers' or exchange auditor in respect of any act or proceeding, under the provisions of this section.

Commence-
ment of
Act.

9. This Act shall come into force on the day upon which it receives the Royal Assent except clause *b* of subsection 1 of section 19 as enacted by section 8 hereof, which clause shall come into force on a day to be named by the Lieutenant-Governor by his proclamation.

QUEBEC

REVISED STATUTES OF QUEBEC 1925, CHAPTER 228, THE
SECURITY SALES ACT

CHAPTER 228

An Act Respecting the Issue and Sale of Shares, Bonds and other
Securities*

1. This act may be cited as the Securities Sale Act.

Short title.

DIVISION I

INTERPRETIVE

2. (1) The word "company" as used in divisions I, II and III of this act means: Meaning
of word
"company."

- (a) All corporations and joint stock companies incorporated after the 23rd of May, 1924 (the date of the coming into force of the act 14 George V, chapter 64), by or under an act of the Legislature of this Province, authorized by their charter or by the general law to issue shares or bonds;
- (b) Corporations and companies incorporated after the 23rd of May, 1924, in any way whatsoever, by or under an act of the Legislature of another province in Canada, or of a foreign country.

2. In this act, unless the context requires another interpretation, the word "bond" includes both bonds and debenture stock; the word "share" includes all kinds of shares and share warrants. "Bond."
"Share."

3. This act shall not apply to,—

- (a) any bonds or shares issued by a corporation or company whose shares or bonds are listed upon any incorporated stock exchange in Canada, or upon the Exchange (Bourse) of Paris, London or New York; Not
applicable.
- (b) any issue of shares or bonds by any company in favour of its shareholders or bondholders, or in favour of its promoters, or of those whom they represent or for whom they act, as dividends or as division of profits or upon a reorganization or upon any new issue whatsoever; nor to any issue of shares by a company, as partial or total payment for the acquisition of moveable or immoveable property; nor to any sale of shares or bonds made judicially or by an executor, an administrator, a sequestrator, an official receiver, a guardian, or a trustee appointed under judgment of a court; Where not
applicable.

* This act came into force by proclamation of the 23rd of May, 1924, Official Gazette for 1924, p. 1682.

- (c) any isolated sale of any security by the owner thereof or his representative, for the owner's account, such sale not being made in the course of repeated and successive transactions of a like character by such owner or on his account by such representative, and such owner or representative not being the underwriter of such securities. R.S. 6119f; 14 Geo. V, c. 64, s. 1; 15 Geo. V, c. 67, s. 1.

DIVISION II

ISSUE AND SALE OF BONDS

Obligation
to transmit
documents.

3. No company may issue, sell, offer for sale or otherwise dispose of, in any manner, directly or indirectly, through an officer, an agent or any person, its bonds in this Province, unless it has previously transmitted, to the Provincial Secretary, the following documents:

Copy of
charter,
etc.

(1) A copy of its charter, of its articles of association or of any other act or document incorporating it, as well as of all supplementary letters patent, if any, certified to be true copies by the officer having the custody of the originals of such documents;

Copy of by-
law ordering
issue and
sale; con-
tents and
certification
thereof.

(2) A copy of the by-law of the directors of the company, ordering the issue and sale of such bonds, showing the date of the passing of the by-law by the directors, the date of the shareholders' meeting at which the by-law was approved, the number of shares held or represented by the shareholders present at such meeting and by the shareholders who have voted in favour of the by-law, the aggregate amount of the proposed issue of bonds, the number and par value of such bonds, the rate of the interest they shall bear, the date of their maturity and the description of the moveable and immoveable property to be given in security, if any, with a statement of the value of such properties. Such copy of the by-law must be certified to be a true copy by the president or vice-president and the secretary of the company, and bear the company's seal;

Copy of
estimate,
prospectus,
etc.

(3) A copy of every estimate and prospectus and of every other representation in writing made by the company or upon its instructions, containing a statement of the profits likely to be realized;

Certified
and sworn
statement.
Contents.

(4) A statement certified by the auditor of the company and sworn to by two of the directors, showing:—

- (a) The number of shares, if any, fixed by the by-laws, to qualify as a director, and the conditions determined by the by-laws of the company for the remuneration of the directors;
- (b) The names, callings and addresses of the directors, and their salaries, if any;
- (c) The cash on hand;
- (d) The aggregate amount of the claims of the company, showing the aggregate amount of those doubtful of realization;
- (e) The claims of the company against the directors, officers and shareholders, respectively, as well as their claims against the company, showing the amount and nature of such claims—the balance due by the shareholders upon the shares not fully paid up may be indicated by a lump sum;
- (f) Merchandise on hand and its value;
- (g) Disbursements made for future operations;
- (h) The moveable and immoveable property, and the value thereof;

- (i) The goodwill, grants, patents and copyrights, trade-marks, leases, contracts and permits;
- (j) The debts of the company, secured by hypothecs or other charges on the property of the company, setting forth such securities and the names of the creditors;
- (k) The aggregate amount of the unsecured debts of the company; the name of the creditor and the nature of each debt to be indicated when the debt is the result of any operation outside of the ordinary course of the company's business;
- (l) The amount of common shares, subscribed for and allotted, and the amount paid upon such shares, indicating in what proportion such shares were issued for services rendered, commissions or purchase of assets, since the organization of the company;
- (m) The amount of preferred shares, if any, subscribed for and allotted, and the amount paid on such shares, indicating in what proportion such shares were allotted for services rendered, commissions or purchase of assets, since the formation of the company;
- (n) The indirect and conditional obligations, and their value;
- (o) The previous issues and sales of bonds, if any, with all details of such issues and sales;
- (p) The amount to be deducted for depreciation of the stock-in-trade and of any property of the company;
- (q) The total amount of share warrants issued;
- (r) The names and addresses of the auditors of the company's accounts. R.S. (1909), 6119g; 14 Geo. V, c. 64, s. 1.

DIVISION III

ISSUE AND SALE OF SHARES

4. No company shall issue, sell, offer for sale or otherwise dispose of in any manner, directly or indirectly, through an officer, agent or any person, any share of its capital stock, unless it has previously transmitted to the Provincial Secretary, the following documents:—

(1) A copy of its charter, of its articles of association or of any other act or document incorporating it, as well as of all supplementary letters patent, if any, certified to be true copies by the officer in charge of the originals of such documents; Obligation to transmit documents.
Copy of charter, etc.

(2) A copy of the by-law of the directors of the company ordering the issue and sale of such shares, indicating the date of the passing of the by-law by the directors, the total amount of the proposed issue, the number and complete description of such shares, including the privileges affecting any such shares. Such copy of the by-law shall be certified to be a true copy by the president or vice-president and the secretary of the company, and shall bear the company's seal; Copy of by-law ordering issue and sale; contents and Certification thereof.

(3) A copy of every estimate and prospectus and of every other representation in writing made by the company or upon its instructions, containing a statement of the profits likely to be realized; Copy of estimate, prospectus, etc.

(4) A statement certified by the auditor of the company, and sworn to by two of the directors, setting forth: Certified and sworn statement.

Contents.

- (a) The names, callings, and addresses of the persons who applied for the incorporation, the number of shares subscribed for by each of them, and the nature and extent of the interest of each of the subscribers in the property and profits of the company;
- (b) The number of shares, if any, fixed by the by-laws, to qualify as a director, and the conditions fixed by the by-laws of the company for the remuneration of directors;
- (c) The names, callings, and addresses of the directors or proposed directors, stating their salaries, if any;
- (d) The minimum subscription required before the directors may proceed to allot shares, and the sum to be paid upon subscribing and that upon allotment; and, in the event of a second issue or a subsequent issue of shares, the amount offered for subscription at each previous allotment in the two preceding years, as well as the amount actually allotted and the instalments, if any, paid on the price of the shares so allotted;
- (e) The number and amount of shares and bonds which within the two preceding years have been issued or agreed to be issued, as fully or partly paid up otherwise than in cash; and, in the latter case, the statement must show to what extent these shares or bonds were so paid up, and in both instances, the consideration for which the issue of the shares or bonds was made or proposed;
- (f) The names and addresses of the vendors of any property, acquired by the company or which it intends to acquire, which is to be paid for, wholly or partly, out of the proceeds of the proposed issue, or whose acquisition was not completed at the date of the proposed issue, but which is proposed to be paid for out of such proceeds, and the sum payable to the vendor in cash, shares or bonds, and, if there be more than one vendor, or if the company be a sub-purchaser, the sum payable to each vendor; provided that if the vendors are a firm they shall not be treated as separate vendors;
- (g) The amount, if any, paid or payable as the purchase price in cash, shares or bonds, for the purchase of any property, as above mentioned, specifying the amount, if any, allowed for goodwill;
- (h) The amount, if any, paid during the two preceding years or payable, as commission, for the placing or subscription of shares or bonds of the company, and the rate of such commission; but it shall not be necessary to mention the commissions payable to those who have dealt with sub-underwriters;
- (i) The amount or estimated amount of preliminary expenses;
- (j) The amount paid within the two preceding years or to be paid to any promoter, and the consideration for any such payment;
- (k) The date of every material contract, with the names of the contracting parties, and a reasonable time and place at which each such contract or a copy may be inspected; this provision shall not apply to a contract relating to matters dealt with or to be dealt with in the ordinary course of the

company's business, or to a contract made more than two years before the date of the proposed issue or sale;

- (l) The names and addresses of the auditors, if any, of the company's accounts;
- (m) Full particulars of the nature and extent of the interest, if any, of each director in the promotion of the company or in the properties which the company proposes to acquire, or, if the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or to be paid to such director or the firm in cash, shares or otherwise, by any person, either to induce him to become, or to qualify him as, a director, or for other services rendered by him or by the firm, in the promotion or formation of the company;
- (n) If the company has shares of more than one class, the voting rights respectively conferred by each class of shares, at the meetings of the company. R.S. (1909), 6119h, ss 1, 2, 3, 4; 14 Geo. V, c. 64, s. 1.

5. For the purposes of this division, every person who has been a party to a contract for the sale or purchase, or option for the purchase of a property, bought or to be bought by the company, shall be deemed to be the vendor in the following instances:—

- (1) If the purchase price has not been fully paid at the date of the proposed issue or sale;
- (2) If the purchase price is to be wholly or partly paid out of the proceeds of the proposed issue or sale;
- (3) If the contract depends for its validity or fulfilment on the result of such proposed issue or sale. R.S. (1909), 6119h, s. 5; 14 Geo. V, c. 64, s. 1.

6. When a property is to be leased by the company, this division shall apply as if the word "vendor" also meant lessor, and the expression "purchase price" included also rent, and the expression "sub-purchaser" included sub-lessee. R.S. (1909), 6119h, s. 6; 14 Geo. V, c. 64, s. 1.

7. Every stipulation shall be null which induces or compels a subscriber for shares or bonds to waive compliance with any requirement of this division, or purports to affect him with notice of any contract, document or matter not specifically mentioned in the statement. R.S. (1909), 6119h, s. 7; Geo. V, c. 64, s. 1.

8. This division shall not apply to sales of shares made by a company to persons who have signed the application or documents necessary for the incorporation of the company, nor shall it apply to companies whose letters patent of incorporation or supplementary letters patent,—

(1) limit the number of shareholders to twenty, exclusive of the present and past employees who are shareholders of the company and who have continued so to be after leaving its employ; or

(2) forbid any appeal to the public to subscribe for shares. R.S. (1909), 6119h, s. 8; 14 Geo. V, c. 64, s. 1.

9. Nothing in this division shall limit or diminish any liability arising from any other provision of law. R.S. (1909), 6119h, s. 9; 14 Geo. V, c. 64, s. 1.

Prohibition
as to mention
in share-
certificate,
etc.

Exception.

Loss of civil
recourse for
non-com-
pliance with
formalities.

Liability
of directors.

Rights of
Sharehold-
ers, etc.

10. It is forbidden for any company, association or person, issuing or offering for sale the shares or bonds of any company, to mention, in the share-certificate or on the bond or in any written or printed document intended for publication, that the formalities required under the preceding sections for the issue and sale of such shares or bonds have been complied with other than by the declaration that the formalities required under the Securities Sale Act have been complied with. R.S. (1909), 6119i, 14 Geo. V, c. 64, s. 1.

11. Any company which does or allows to be done one or more of the transactions contemplated by sections 3 and 4 without the formalities required by such two sections having been accomplished, shall lose its civil recourse against the purchasers of such shares or bonds for the purchase price or balance of purchase price thereof; and the directors of such company, who may have participated by their vote in the commission of such infringement, shall be jointly and severally liable for the repayment of the shares or bonds sold contrary to the provisions of division II or III of this act, to the extent of the price paid by the purchasers for such shares or bonds.

Nothing in Division II or III shall be interpreted as depriving the shareholders or bondholders of the rights and recourses they may have against the company or any other person. R.S. (1909), 6119j; 14 Geo. V, c. 64, s. 1.

DIVISION IV

PENALTIES FOR THE ISSUE AND SALE, IN CERTAIN CASES, OF SHARES, BONDS AND OTHER SECURITIES

Penalties
for certain
infringements.

12. Every company or corporation, incorporated after the 23rd of May, 1924 (the date of the coming into force of the act 14 George V, chapter 64), whatever be the manner or place of its incorporation and whatever be the authority incorporating it, whether within or without the Province, which carries on for itself or for any other such company or corporation, and every person who carries on for such a company or corporation, one or more of the operations contemplated by sections 3 and 4 and which are not included in subsection 3 of section 2, without the information mentioned in sections 3 and 4 having been transmitted in the manner therein indicated to the Provincial Secretary, shall be liable, for each infringement, to a fine of not more than one thousand dollars; and, failing payment of the said fine, such person, or, in the case of a company or corporation, the officers or directors thereof who may have participated, by their vote, in the commission of such infringement by the said company or corporation shall be liable to imprisonment for not more than three months. R.S. (1909), 6119k, 14 Geo. V, c. 65, s. 1.

REVISED STATUTES OF QUEBEC, 1925, CHAPTER 25,
QUEBEC LICENSE ACT

DIVISION IX

BROKERS

92. (1) Every broker, firm of brokers, or person, whose residence or chief place of business is outside the Province, desiring to do business therein through an agent or representative by dealing or taking orders to deal in shares, bonds, debentures or debenture stock from within the Province, with any broker or firm of brokers or person outside the Province, shall take out, for such agent or such representative in a fixed office or place of business, an annual license, upon payment of a duty of two thousand dollars. Non-resident brokers.

(2) The taking out of a license under this section shall not exempt the holder of such license from any of the provisions of the Security Transfer Tax Act (Chap. 27). R.S. (1909), 992, 11 Geo. V, c. 26, s. 1. Proviso.

93. Every person coming within the purview of subsection 1 of section 92, who carries on the business therein described, without being the holder of a license for that purpose, then in force, as well as his agent and representative in the Province, shall incur a penalty of two thousand dollars for each offence; and every one who deals with such person in the business described in the said subsection 1 of section 92, shall be liable to the Crown for twice the amount exigible upon each such transaction under the Security Transfer Tax Act (Chap. 27). R.S. (1909), 993; 11 Geo. V, c. 26, s. 1. Penalty for operating without a license.

94. (1) Every person not residing within the Province, who temporarily comes therein for the purpose of dealing in shares, bonds, debentures, or debenture stock, either in his own name or in the name of any firm or company, having its head office outside of the Province, or of any broker or other person not residing in the Province, shall first obtain a semi-annual license, upon payment of a duty of five hundred dollars. Semi-annual license.

(2) Every person residing in the Province and doing a brokerage business of any kind therein, shall, at such times and in such manner as may be determined by the Provincial Treasurer, register with the stock tax collector, if in the district of Montreal, and with the proper collector of provincial revenue in any other revenue district. The registration fee shall be three dollars, of which two dollars shall belong to the consolidated revenue fund and one dollar to the collector. Registration of resident brokers.

(3) The taking out of a license under this section shall not exempt the holder of such license from any of the provisions of the Security Transfer Tax Act (Chap. 27). R.S. (1909), 994; 11 Geo. V, c. 26, s. 1. Proviso.

95. Every person coming within the purview of subsection 1 of section 94, who carries on the business therein described without being the holder of a license for that purpose, then in force, shall incur a fine of not more than one thousand dollars and not less than five hundred dollars, for each offence; and every one who deals with such person in the business described in the said subsection 1 of section 94 shall be liable to the Crown for twice the amount exigible upon each such transaction under the Security Transfer Tax Act (Chap. 27). R.S. (1909), 995; 11 Geo. V, c. 26, s. 1. Penalty for operating without a license.

QUEBEC

(18 GEORGE V, CHAPTER 14).

CHAPTER 14

An Act to amend the Quebec License Act

(Assented to, the 22nd of March, 1928).

His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:—

R.S., c. 25,
s. 94 am.

1. Section 94 of the Quebec License Act (Revised Statutes, 1925, chapter 25) is amended:—

(a) By replacing subsection 2 thereof, by the following subsections:—

Duty on
persons
doing brok-
erage
business.

“ 2. Every person residing in the Province, with a place of business therein and doing a brokerage business therein in shares, bonds, debentures or debenture-stock, must first obtain an annual license for the purpose, upon payment of a duty of three hundred dollars. If such person has more than one place of business in the Province, such duty shall be increased by the sum of one hundred and fifty dollars for each place of business over and above the first one.

Idem.

“ 3. Every person residing in the Province, without any place of business therein and doing a brokerage business therein in shares, bonds, debentures or debenture-stock, must first obtain an annual license for the purpose, upon payment of a duty of ten dollars.”;

(b) By replacing therein the figure: “3,” preceding the third subsection thereof, by the figure: “4.”

R.S. c. 25,
s. 95,
replaced.
Offence and
penalty.

2. Section 95 of the said act is replaced by the following:—

“ 95. 1. Every person coming within the purview of subsection 1 of section 94, who carries on the business therein described without being the holder of a license for that purpose, then in force, commits an offence against this Division and shall be liable, in addition to the payment of the license duty and costs, to a fine equal to twice the amount of the duties exigible under the said subsection, and, failing payment, to imprisonment for one month in the common gaol.

Offence and
penalty.

“ 2. Every person coming within the purview of subsection 2 of section 94, who carries on the business therein described without being the holder of a license for that purpose, then in force, commits an offence against this Division and shall be liable, in addition to the payment of the license duty and costs, to a fine equal to twice the amount of the duties exigible under the said subsection, and, failing payment, to imprisonment for one month in the common gaol.

Idem.

“ 3. Every person coming within the purview of subsection 3 of section 94, who acts as broker without being the holder of a license for that purpose, then in force, commits an offence against this Division and shall be liable, in addition to the payment of the license duty and costs, to a fine equal to twice the amount of the duties exigible under the said subsection, and, failing payment, to imprisonment for one month in the common gaol.”

3. The said act is amended by inserting therein, after section 95 thereof, the following sections:—

R.S. c. 25,
ss. 95a to
95e, added.

"95a. For the purposes of this Division, the word "broker" means any person dealing commercially in shares, bonds, debentures, debenture-stock or other securities, and includes any person who offers to sell or buy or who sells or buys such securities on behalf of another person; but it does not include the notary who is not regularly appointed agent for a person, firm or corporation doing a brokerage business, and who acts as intermediary between his clients and such broker."

"Broker."

"95b. A broker shall not offer for sale or sell shares, bonds, debentures, debenture-stock or other securities of a company which is subject to the provisions of the Securities Sale Act (Chap. 228) and which has not complied therewith."

Sale of
certain
shares, etc.
prohibited.

"95c. A broker's license shall be valid throughout the Province and shall be issued by the Comptroller of Provincial Revenue. He may refuse to issue such license to any person who is not sufficiently recommended, and the Provincial Treasurer may suspend or revoke it, if, after investigation, he concludes that such broker has infringed any of the provisions of this act or of the Securities Sale Act (Chap. 228) or of the Security Transfer Tax Act (Chap. 27) or of the regulations made thereunder, or is accused of a criminal offence."

Broker's
license.

"A license issued to a firm or corporation under subsection 2 of section 94 does not include that required of its officers and directors under the authority of subsection 3 of the same section."

Broker's
license.

"95d. Every licensed broker who collects the tax imposed by the Security Transfer Tax Act (Chap. 27) acts, in such case, as agent for the Revenue Branch, and shall remit such tax in money to the Revenue Branch, at the times and with the reports and information which the Provincial Treasurer may exact."

Tax to be
remitted.

"95e. The Attorney-General of the Province of Quebec or the Provincial Treasurer may, at any time, authorize, in writing, one or more officers of his department, to examine the books and documents relating to the business of any broker dealing in shares, debentures, debenture-stock, bonds or other securities, in order to ascertain whether the transactions of such broker are in conformity with this act or with the Security Transfer Tax Act (Chap. 27) or with the Securities Sale Act (Chap. 228)."

Inspections.

"Every broker, who neglects or refuses to show his books and documents relating to his business to such officer or officers, commits an offence against this act, and shall incur for each offence a fine not exceeding one thousand dollars and, failing payment of the fine, the person, or, in the case of a company or corporation, the officers or directors of the company or corporation who, by their vote, may have contributed to the commission of the offence by the company or corporation, shall be liable to imprisonment not exceeding three months."

Refusal.
Offence
and
penalty.

4. This act shall come into force on the day of its sanction.

Coming
into
force.

NOVA SCOTIA

EXTRACT FROM CHAPTER 174, REVISED STATUTES OF
NOVA SCOTIA, 1923

PROSPECTUS

Prospectus,
date, con-
tents and
filing of.

79. (1) Every prospectus issued by or on behalf of a company or in relation to any intended company shall be dated, and that date shall, unless the contrary be proved, be taken as the date of publication of the prospectus.

(2) A copy of every such prospectus, signed by every person who is named therein as a director or proposed director of the company, or by his agent authorized in writing, shall be filed for registration with the registrar on or before the date of its publication, and no such prospectus shall be issued until a copy thereof has been so filed for registration.

(3) The registrar shall not register any prospectus unless it is dated, and the copy thereof signed, in manner required by this section.

(4) Every prospectus shall state on the face of it that a copy has been filed for registration as required by this section.

(5) If a prospectus is issued without a copy thereof being so filed, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a penalty not exceeding twenty-five dollars for every day from the date of the issue of the prospectus a copy thereof is so filed. 1921, c. 19, s. 79.

Specific re-
quirements
as to
particulars
in prospectus.

80. (1) Every prospectus issued by or on behalf of a company, or by or on behalf of any person who is or has been engaged or interested in the formation of the company, must state—

- (a) the number of shares, if any, fixed, by the articles as the qualification of a director, and any provision in the articles as to the remuneration of the directors; and
- (b) the names, descriptions, and addresses of the directors; and
- (c) the number and amount of shares and debentures which within the two preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or are proposed or intended to be issued; and
- (d) the names and addresses of the vendors of any property purchased or acquired within the two preceding years by the company; provided that this requirement shall not apply to property purchased or acquired by the company in the ordinary course of the business carried on or intended to be carried on by the company; and
- (e) the names and addresses of the vendors of any property proposed to be purchased or acquired by the company, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus; provided that this requirement shall not apply to property proposed

to be purchased or acquired by the company in the ordinary course of the business carried on or intended to be carried on by the company and proposed to be purchased or acquired from any person who is not a director of the company or engaged or interested in the formation of the company; and

- (f) the amount (if any) paid or payable as purchase money in cash, shares, or debentures, for any such property as aforesaid, specifying the amount (if any) payable for goodwill; and
- (g) the dates of and parties to every material contract relating to the purchase or proposed purchase of property by the company as aforesaid, and a reasonable time and place at which any material contract or a copy thereof may be inspected; and
- (h) the amount or estimated amount of preliminary expenses; and
- (i) the names and addresses of the auditors (if any) of the company; and
- (j) where the company is a company having shares of more than one class, the right of voting at meetings of the company conferred by the several classes of shares respectively.

(2) Where any of the property to be acquired by the company is to be taken on lease, this section shall apply as if the expression "vendor" included the lessor, and the expression "purchase money" included the consideration for the lease. Where property acquired and taken on lease.

(3) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, documents or matter not specifically referred to in the prospectus, shall be void. Conditions to waive compliance void.

(4) In the event of non-compliance with any of the requirements of this section, every prospectus shall, with respect to any person who takes shares in the company on the faith of such prospectus, be deemed fraudulent on the part of the company, and the promoters, directors, and officers of the company who knowingly issue or authorize the issue of such prospectus, provided that a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance, if he proves that— Prospectus deemed fraudulent in case of non-compliance.

(a) as regards any matter not disclosed, he was not cognizant thereof; or

(b) the non-compliance arose from an honest mistake of fact on his part.

(5) This section shall not apply to a circular or notice inviting existing members or debenture holders of a company to subscribe either for shares or for debentures of the company, whether with or without the right to renounce in favour of other persons, but subject as aforesaid this section shall apply to any prospectus whether issued on or with reference to the formation of a company or subsequently. Section not applicable to existing members.

(6) The requirements of this section as to the qualification, and remuneration of directors, the names, descriptions and addresses of directors or proposed directors, and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date at which the company has commenced business. Requirements as to directors not applicable after one year.

Liability
under
general law
not limited.

(7) Nothing in this section shall limit or diminish any liability which any person incurs under the general law or this Chapter apart from this section. 1921, c. 19, s. 80.

Liability of
directors for
untrue state-
ments in
prospectus.

81. (1) Where a prospectus invites persons to subscribe for shares in or debentures of a company every person who is a director of a company at the time of the issue of the prospectus, and every person who has authorized the naming of him and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time, and every promoter of the company, and every person who has authorized the issue of the prospectus shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for the loss or damage they may have sustained by reason of any untrue statement therein, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved—

- (a) with respect to every untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, that he had reasonable ground to believe, and did up to the time of the allotment of the shares or debentures, as the case may be, believe that the statement was true; and
 - (b) with respect to every untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation; provided that the director, person named as director, promoter, or person who authorized the issue of the prospectus, shall be liable to pay compensation as aforesaid if it is proved that he had no reasonable ground to believe that the person making the statement, report, or valuation was competent to make it; and
 - (c) with respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public document, that it was a correct and fair representation of the statement or copy of or extract from the document:
- or unless it is proved—
- (i) that having consented to become a director of the company he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or
 - (ii) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was issued without his knowledge or consent; or
 - (iii) that after the issue of the prospectus and before allotment thereunder, he, on becoming aware of any untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of his withdrawal, and of the reason therefor.

Liability
to indemnify
person
named as
director who
has not
consented.

(2) Where the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorized or consented to the issue thereof, the directors of the

company, except any without whose knowledge or consent the prospectus was issued, and any other person who authorized the issue thereof, shall be liable to indemnify the person named as aforesaid against all damages, costs, and expenses to which he may be made liable by reason of his name having been inserted in the prospectus, or in defending himself against any action or legal proceedings against him in respect thereof.

(3) Every person who by reason of his being a director, or named as a director or as having agreed to become a director, or of his having authorized the issue of the prospectus, becomes liable to make any payment under this section, may recover contribution, as in cases of contract, from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable was, and that other person was not guilty of fraudulent misrepresentation.

Director may recover contribution in certain cases.

(4) For the purpose of this section—

the expression “promoter” means a promoter who was a party to the preparation of the prospectus, or of the portion thereof containing the untrue statement, but does not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company;

Promoter and expert defined.

The expression “expert” includes engineer, valuer, accountant, and any other person whose profession gives authority to a statement made by him. 1921, c. 19, s. 81.

CHAPTER 11

An Act Respecting the Sale of Shares, Stocks, Bonds and other Securities

(Passed the 9th day of May, A.D. 1924)

Be it enacted by the Governor, Council, and Assembly, as follows:—

1. This Act may be cited as “The Sale of Securities’ Act.”

Title.

2. (a) The expression “Company” means a company, corporation, syndicate or association of persons incorporated or unincorporated other than a body corporate incorporated by or under the authority of an Act of the Parliament of Canada;

Company.

(b) the expression “Security” or “Securities” shall include any share, share warrant, stock, bond, or debenture, debenture stock, investment contract, certificate or other evidence of an interest in the property or undertaking of any company.

Security.

3. This Act shall not apply to any shares, stocks, bonds or other securities—

- (a) of the Dominion of Canada or of any Province thereof; or
- (b) guaranteed by the Dominion of Canada or any Province thereof; or
- (c) of the United Kingdom of Great Britain and Ireland or of any foreign country; or

Act not applicable to certain shares and securities.

- (d) of any county, city, town, municipality, or school district of any Province of Canada; or
- (e) issued by a company whose bonds or shares are listed upon any incorporated stock exchange in Canada; or upon stock exchanges of London, Paris or New York.
- (f) which are authorized for the investment of trust funds in any Province of Canada;
- (g) of any company incorporated prior to the coming into force of this Act;
- (h) issued by any company in favour of its shareholders or bondholders as dividends or as division of profits or upon a re-organization;
- (i) sold judicially, or by an executor, administrator, sequestrator or receiver, appointed by a court of competent jurisdiction, and official receiver, a guardian, trustee, liquidator, custodian of the estate of a bankrupt or authorized assignors, or sheriffs and other officials of any Court of the Province of Nova Scotia while acting in their representative capacities;
- (j) of any society organized under an Act of the Legislature of Nova Scotia, entitled "An Act for the Regulation of Benefit Building Societies" and being Chapter 42, 12 Victoria;
- (k) the issue whereof has been authorized or approved by the Nova Scotia Board of Commissioners of Public Utilities, or the Board or body analogous thereto, which exercises similar functions in any Province of Canada;
- (l) secured by rates or taxes levied under the authority of any Province of Canada on property situate in such Province and collectable by the Municipality or Municipalities in which such property is situate, or to an isolated sale thereof, such sale not being made in the course of repeated and successive transactions.

Documents
to be filed
with
Provincial
Secretary
before selling
securities.

4. No person shall in Nova Scotia sell or offer or attempt to sell any security of any company unless and until there has been filed with the Provincial Secretary with respect to any such company the following documents,

- (a) a copy of the charter, letters patent, memorandum of association, or other Act or document incorporating such company, together with all additions, supplements, or amendments thereto, certified to be true copies by the officer having the custody of the originals thereof;
- (b) a copy of the by-law, article of association, or resolution, if any, authorizing the issuance of any security, the date on which the same was passed and confirmed, with the total amount par value, number, and complete description of issue of such securities;
- (c) a copy of every estimate and prospectus and of every other representation in writing containing a statement of the profits likely to be realized by the company;
- (d) a statement showing:—
 - (i) the names, addresses and occupations of the directors, their salaries, and the number of shares, if any, required as qualification for a director;

- (ii) the authorized capital, the issued capital, the paid-up capital, indicating the shares thereof issued for promoting the company, services rendered, commissions, or purchase of assets, and the total amount of all securities which are a charge on the assets and undertaking of the company;
- (iii) the number and classes of securities into which the capital of the company is divided, the voting powers, preferences, rights to dividends, profits, or capital of each class;
- (iv) the amount of the issue of any such securities, and the minimum subscription on which the company may proceed to allotment;
- (v) the number and amount of securities which within the two preceding years have been issued or agreed to be issued as fully or partly paid-up, otherwise than in cash, and the consideration therefor; in the latter case in addition thereto the extent to which such securities are so paid up;
- (vi) the names and addresses of the vendors of any property acquired by the company or which it intends to acquire, which is to be paid for, wholly or in part, out of the proposed issue, or the purchase or acquisition of which has not been completed at the date of the statement, but which is proposed to be paid for out of such proceeds, the sum payable to the vendor in cash or securities or otherwise, and, where there is more than one vendor, or if the company is a sub-purchaser, the sum payable to each vendor; provided that if the vendors are a firm they shall not be treated as separate vendors;
- (vii) the amount, if any, paid or payable as the purchase price in cash or securities for the purchase of any property, as above mentioned, specifying the amount, if any, allowed for good-will;
- (viii) the amount or estimated amount of preliminary expenses;
- (ix) the dates of every material contract, with the names of the contracting parties and a reasonable time and place at which the same may be inspected; provided that this section shall not apply to a contract entered into in the ordinary course of business, or entered into more than three years before the date of the statement;
- (x) the names, occupations, and addresses of the persons who applied for incorporation, the number of shares subscribed for by each, and the nature and extent of the interest of each in the property of and profits of the company;
- (xi) the names and addresses of the auditors, if any, of the company;
- (xii) the nature and extent of the interest if any, of each director in the promotion of the company or in the properties which the company proposes to acquire, or, if the interest of such director consists in being a member of a firm, the nature and extent of the interests of

the firm, with a statement of all moneys paid or to be paid to such director or the firm in cash or securities by any person either to induce him to become or qualify him to become a director, or for other services rendered by him or the firm in the promotion or formation of the company;

- (e) a statement of the assets and liabilities of the company showing the aggregate amount of each of the following:—
 - (i) claims due the company, the aggregate amount of doubtful claims being segregated;
 - (ii) the cash and merchandise on hand and the value of such merchandise;
 - (iii) claims of the company against each director;
 - (iv) disbursements made for future operations;
 - (v) debts of the company secured by mortgage;
 - (vi) amount of unsecured debts of the company;
 - (vii) indirect and conditional obligations of the company;
 - (viii) amount to be deducted for depreciation of stock in trade and any property of the company;
 - (ix) goodwill, grants, patents, copyrights, trademarks, leases, contracts and permits;
 - (x) it shall be sufficient compliance with this subsection if the statements required to be filed hereunder relate or refer to the last preceding annual accounting period of the company, or if the company has not been in business for one year, to a date within three months of the filing of such statement;
- (f) for the purpose of this section the word “vendor” shall include a person who has entered into a contract, absolute or conditional, for the sale or purchase or for an option of purchase of any property to be acquired by the company where—
 - (i) the purchase money is not fully paid at the date of the statement; or
 - (ii) the purchase money is to be paid wholly or in part out of the proceeds of the issue offered sale; or
 - (iii) the contract depends for its validity or fulfilment on the result of such issue;
- (g) where any of the property to be acquired by the company is to be taken on lease this section shall apply as if the expression “vendor” included the lessor and the expression “purchase money” included the consideration for the lease and the expression “sub-purchaser” included a sub-lessee;
- (h) the statement required to be filed by this section shall be signed by the President and Manager or the Vice-President and Manager of such company and verified by affidavit of a responsible officer or person having knowledge of the facts and having a substantial interest in the company or its undertaking;

- (i) all amendments or additions to any of the documents specified in subsections (a), (b) and (c) of this section from time to time made shall be similarly certified and filed with the Provincial Secretary.

5. Every agreement or stipulation whereby a subscriber for any security agrees or is induced or compelled to waive compliance with any requirement of this Act or which affects or purports to affect him with notice of any contract, document or matter not specifically mentioned in any statement required to be filed as in this Act provided, shall be null and void.

Agreement or stipulation for security waiving compliance with Act etc. null and void.

6. No company or person issuing or offering for sale any securities of any company shall mention in any written or printed document that the formalities required by this Act have been complied with.

Documents not to mention formalities of Act have been complied with.

7. Every person who contravenes any provision of this Act shall be guilty of an offence and shall be liable on summary conviction to a penalty of not less than fifty or more than one thousand dollars, and, in default of payment, imprisonment for a term not exceeding six months.

Penalty for contravention.

8. A contract for the sale of any securities shall not be enforceable by action in any Court in Nova Scotia unless the documents and statements required to be filed under this Act have been in fact so filed.

Contract for sale not enforceable unless documents filed.

9. There shall be paid for the documents and statements required to be filed by this Act such fees as the Governor in Council may from time to time direct.

Fees for documents and statements.

10. This Act shall not apply to any company now or hereafter incorporated under Chapter 49, Revised Statutes, 1923, "Of the Incorporation of Farmers' Co-operative Societies," or under Chapter 70, Revised Statutes, 1923, "Of the Incorporation of Farmers' Fruit, Produce and Warehouse Associations," or under Chapter 71, Revised Statutes, 1923, "Of the Nova Scotia Farmers' Association," or under Chapter 189, Revised Statutes, 1923, "Of Fishermen's Bait Associations," or under Chapter 190, Revised Statutes, 1923, "Of the Organization of Fishermen's Unions," or under Chapter 191, Revised Statutes, 1923, "Of the Incorporation of Associations for the Construction of Mechanical Bait Freezers," or under Chapter 192, Revised Statutes, 1923, "Of the Incorporation of Owners of Vessels in the Fishing Industry," or under Chapter 193, Revised Statutes, 1923, "The Fishermen's Co-operative Societies' Act," or under Chapter 194, Revised Statutes, 1923, "The Cemetery Companies' Act," or under Chapter 195, Revised Statutes, 1923, "Of Library Associations and Institutes," or under Chapter 196, Revised Statutes, 1923, "The Rural Telephone Act," or under Chapter 4, Acts of 1919, "The Nova Scotia Housing Act," or by or under the authority of an Act of the Parliament of Canada.

Act not applicable to certain companies.

11. This Act shall come into force upon such date as the Governor in Council may be pleased to fix by proclamation.

Act in force by proclamation.

CHAPTER 12

An Act Respecting the Registration of Brokers

(Passed the 9th day of May, A.D. 1924)

Be it enacted by the Governor, Council, and Assembly, as follows:

Title.

1. This Act may be cited as "The Brokers' Registration Act."

"Security" defined.

2. The expression "security" or "securities" shall include, any share, share warrant, stock, bond, or debenture, debenture stock, investment contract, certificate or other evidence of an interest in the property or undertaking of any Company.

Certificate of Registration.

3. No person shall, either as principal, agent or otherwise, offer for sale, sell or otherwise deal in securities or underwrite any issue of securities or purchase or otherwise acquire such securities from another person for the purpose of re-selling or offering for sale such securities for commission or at a profit without first securing a certificate of registration from the Provincial Secretary.

Application for registration.

4. (1) Every applicant for registration shall file in the office of the Provincial Secretary an application in writing, duly verified by affidavit. Such application shall be in such form and contain such particulars as may be required by the regulations passed hereunder.

Application of Agent to be approved.

(2) Where any person applying for registration is acting as an agent for any other person, firm, or corporation, such application shall be approved and countersigned by the person, firm, or corporation for which such person applying for registration is so acting.

Security to be furnished.

(3) Every such applicant shall, if requested by the Provincial Secretary, furnish security in the form and for an amount satisfactory to the Provincial Secretary that he will faithfully comply with the provisions of this Act and of the regulations made hereunder.

Book of names and addresses to be kept.

5. The names and addresses of all persons registered under the provisions of this Act shall be entered in a book which shall be kept in the office of the Provincial Secretary and shall be open to public inspection.

List of securities offered for sale to be filed monthly.

6. (1) Every person who holds a certificate of registration under this Act shall on or before the last day of each month file in the office of the Provincial Secretary a statement, verified by affidavit, containing a list of all securities offered for sale by him during that calendar month, and a copy of every prospectus or circular letter relating to each such security used by such person for advertising such security or for the purpose of inducing any person to purchase or subscribe for any such security.

(2) It shall be sufficient compliance with the provisions of this section if the information required to be filed by this section is filed on behalf of any person by the person, firm or company which any such person represents, provided that such person, firm or company has registered under this Act.

7. The Lieutenant-Governor-in-Council may from time to time make regulations fixing the fees for registration and prescribing the form of applications, reports and other documents required by this Act or by any regulations hereunder, and generally for the better carrying out of the provisions of this Act. Regulations as to fees, reports, etc.

8. Every person who contravenes any provision of this Act shall be guilty of an offence and shall be liable on summary conviction to a penalty of not less than one hundred dollars and not more than five hundred dollars, or, in default of payment, to a term in prison not exceeding six months. Penalty for contravention.

9. The Provincial Secretary may at any time, for misconduct or violation of the provisions of this Act or of the regulations passed hereunder, or for violation of any of the provisions of The Sale of Securities Act, cancel any certificate of registration issued under this Act and remove the name or names of the holder thereof from the register. Certificate may be cancelled for cause.

10. This Act shall not apply to the sale by a company of its securities. Act not applicable.

11. This Act shall come into force upon such date as the Governor-in-Council may be pleased to fix by proclamation. Act in force by Proclamation.

MANITOBA

CHAPTER 46

An Act for the Protection of Investors

(Assented to March 16th, 1928)

His Majesty, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:—

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| Title. | 1. This Act may be cited as "The Security Frauds Prevention Act". |
| Definitions. | 2. In this Act, unless the context otherwise requires, |
| "Attorney-General." | (a) "Attorney-General" means the Attorney-General of Manitoba. |
| "Board." | (b) "Board" means The Municipal and Public Utility Board. |
| | (c) "Board's Act" means "The Municipal and Public Utility Board Act", being chapter 33 of the Statutes of 1926. |
| "Company." | (d) "Company" includes any association, corporation, company or other incorporated organization, whether acting as a trustee or not. |
| "Fraud." | (e) "Fraud", "fraudulent" and "fraudulent act" include in addition to their ordinary meaning and to any meaning which the Courts have heretofore or may hereafter attach thereto: <ul style="list-style-type: none"> (i) any intentional misrepresentation, by work, conduct, or in any manner of any material fact either present or past, and any intentional omission to disclose any such fact; (ii) any promise or misrepresentation as to the future which is beyond reasonable expectation and not made in good faith; (iii) any fictitious trade or pretended trade in any security; (iv) the gaining or attempt to gain, directly or indirectly through a trade in any security, a commission, fee or profit so large and exorbitant as to be unconscionable and unreasonable; (v) generally any course of conduct or business which is calculated or put forward with intent to deceive the public or the purchaser of any security as to the nature of any transaction or as to the value of such security; (vi) the making of any false statement in any application, information, material or evidence submitted or given to the Board or a representative of the Board under the provisions of this Act or the regulations or in or upon an application for a license to sell securities or for a certificate permitting the sale of the securities of a company under the provisions of the Board's Act; (vii) the violation of any provision of this Act or of the regulations relating to the manner in which any person or company shall trade in securities, and anything specifically designated in the regulations as coming within the meaning of this definition; |

- (viii) any artifice, agreement, device or scheme to obtain money, profit or property by any of the means hereinbefore set forth or otherwise contrary to law.
- (f) "Person" means an individual, partnership, association, syndicate and any other unincorporated organization whether acting as a trustee or not. "Person."
- (g) "Regulations" means regulations made from time to time by the Lieutenant-Governor in Council under the provisions of this Act. "Regulations."
- (h) "Security" includes any bond, share, debenture or other document or instrument commonly known as security, every documentary evidence of indebtedness or evidence representing or secured by some title to or interest in the capital, assets, property, profits, earnings or royalties of any person or company or evidence of any option upon a security, and anything designated as a security by the regulations. "Security."
- (i) "Trade" or "trading" includes any disposition of, transaction in, or attempt to deal in, sell or dispose of a security or interest in or option upon a security for any valuable consideration whether the terms of payment be upon margin, instalment or otherwise, and any underwriting of any issue or part of an issue of a security, and any act, advertisement, conduct or negotiation directly or indirectly in furtherance of any of the foregoing or specifically designated as "trade" and "trading" by the regulations. "Trade."
- (j) "Trustee" means any persons or a company, as the case may be, executing a trust expressly created by or declared in an instrument in writing (other than a will, court order or judgment) where such trust is to carry on any business or secure the payment or repayment of money. "Trustee."

3. The Board, or any person to whom as its representative, the Board may in writing delegate such authority, may examine any person or thing whatsoever at any time, in order to ascertain whether any fraudulent act or any offence against this Act or the regulations has been, is being or is about to be committed, and for such purpose shall have the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath and produce documents, records and things as is vested in the Court of King's Bench or a Judge thereof for the trial of civil cases. Power of Board to examine.

4. The failure without reasonable excuse of any person summoned for examination under section 3 to appear, or his refusal to give evidence, or to answer any question, or the failure without reasonable excuse or refusal of any person or company to produce anything, where the evidence, answer or production is such as would be required in an action, shall constitute an offence against this Act and shall also be *prima facie* evidence upon which Effect of failure to appear for examination.

- (a) the Board may base an affirmative finding concerning any fraudulent act to which the Board may deem it relevant, or
- (b) the Court of King's Bench or a Judge thereof may grant an interim or permanent injunction, or
- (c) a police magistrate may base a conviction for an offence against this Act or the regulations.

Disclosure
of evidence
an offence.

5. The disclosure by any person other than by the Attorney-General or a member or the secretary of the Board or such representative of any information or evidence obtained or the name of any witness examined or sought to be examined under section 3 shall constitute an offence against this Act.

Powers of
Board when
fraud
committed.

6. If it is found upon investigation that any fraudulent act or that an offence against this Act or the regulations has been, is being, or is about to be committed,

- (a) the Board may suspend the license to sell securities or the certificate granted or issued under or, any exemption contained in the provisions of Part IV of the Board's Act to the person or company implicated;
- (b) the Board, if it considers such suspension inadequate, or where any person or company not so licensed or certificated is in the opinion of the Board concerned or implicated in such fraudulent act or in such offence, shall report thereof to the Attorney-General, who may proceed under the provisions of the next following section or otherwise as may be provided in this Act or the regulations.

Attorney-
General
may apply
to Court
of K.B. for
orders.

7. (1) The Court of King's Bench or any Judge thereof is hereby empowered upon application of the Attorney-General or of counsel in his behalf where it is made to appear upon the material filed or evidence adduced that any fraudulent act or any offence against this Act or the regulations has been, is being or is about to be committed, may by order enjoin any person or company from trading in any security whatever, or in any specific security, or from committing any specific fraudulent act or series of fraudulent acts, absolutely or for such period of time as shall seem just.

Applications.

(2) An application by or on behalf of the Attorney-General under this section may be made without any action being instituted, either

Ex-parte.

- (a) by ex parte motion to a Judge of the Court, in chambers, for an interim injunction which shall, if granted, remain in full force for ten days from the date thereof or until the originating motion mentioned in paragraph (b) of this subsection is sooner heard and determined, and such injunction shall have the same force and effect as if it had been originally granted by order of the Court, or

Originating
notice.

- (b) by an originating notice of motion made to a Judge of the Court, in Court, which, if an interim injunction has been granted, shall be served within five and returnable within ten days from the date of such interim injunction.

Rules of K.B.
to apply to
applications.

(3) All proceedings under this section whether ex parte or by originating notice shall be conducted in accordance with the provisions and rules of the King's Bench as far as the same are applicable to proceedings of a like nature, save that service of the originating notice may be made at the address of the person or company shown on the application for a license or certificate under Part IV of the Board's Act, or otherwise as the Court or Judge may order, and save further that costs may be awarded to but not against the Attorney-General. There shall be an appeal from any judgment or order pronounced hereunder in the same manner as from any other judgment or order of the Court.

(4) A Judge of the Court of King's Bench in exercising any of the powers conferred upon such Judge by this Act shall be deemed so to act as a Judge of such Court and not as persona designata. Judge not acting as persona designata.

(5) Any information, evidence, exhibit or thing obtained by the Board or its representative under the provisions of this Act or the Board's Act or the regulations or copies thereof certified to be true copies by the secretary of the Board shall as far as relevant be receivable in evidence for all purposes in any action, proceeding or prosecution, and in proceedings under this section only the evidence of a witness may be used against him notwithstanding anything in the Manitoba Evidence Act or any rule of law to the contrary. Evidence.

8. The Board may,—

- (a) when it is about to examine or cause to be examined or during or after the examination of any person or company under section 3; or Board may issue stop orders.
- (b) when the Attorney-General is about to apply for or has applied for or has obtained an injunction, interim or otherwise, against any person or company under the provisions of section 7; or
- (c) where criminal proceedings which in the opinion of the Board are connected with or arise out of any security, or any trade therein, or out of any business conducted by the accused, are about to be or have been instituted against any person, direct in writing any person or company having on deposit or under control or for safe-keeping any funds or securities of the person or company, so to be or actually examined, enjoined or charged to hold such funds or securities in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the provisions of "The Bankruptcy Act" or by the Court of King's Bench or a judge thereof or until the Board in writing revokes such direction, and the failure by any person or company to comply with such direction shall be an offence against this Act.

9. The forfeiture of any bonds under the provisions of subsection (3) of section 157 of the Board's Act may be evidenced by a certificate to that effect signed by a member or the secretary of the Board, which certificate, without proof of the signature or office of the person purporting to sign the same, shall constitute the sum named in such bond a debt due and owing by the person or company bound thereby to His Majesty in the right of the Province of Manitoba, and the Attorney-General when His Majesty accordingly becomes a creditor of any person or company may take such proceedings as he shall see fit under "The Bankruptcy Act" or any Act or provision relating to the winding up of companies for the appointment of an interim receiver, custodian, trustee, receiver or liquidator, as the case may be. Attorney-General may institute proceedings under Bankruptcy Act.

10. No action whatever, and no proceedings by way of injunction, mandamus, prohibition or other extraordinary remedy shall lie or be instituted against any person whether in his public or private capacity in respect of any act or omission in connection with the administration or carrying out of the provisions of this Act or the regulations, where such person is the Attorney-General or a member of the Board or where such person was proceeding under the written or verbal directions or consent of the Attorney-General or any such member. Attorney-General or Board not subject to injunction, mandamus or prohibition.

Regulations.

11. The Lieutenant-Governor in Council may make and from time to time amend, alter or repeal regulations not inconsistent with this Act for the better carrying out of the provisions of this Act, for the more efficient administration thereof and for the prevention of fraud in trading in securities whether upon any stock exchange or elsewhere in Manitoba, for the creation of offences, and for any other purpose elsewhere indicated in this Act, and all such regulations and any amendment, alteration or repeal thereof shall become effective in all respects as if enacted in this Act upon the publication thereof in the *Manitoba Gazette*.

Penalties.

12. (1) Every person who violates any provision of this Act or the regulations designated as an offence or who does any fraudulent act not punishable under the provisions of the Criminal Code of Canada shall be liable upon summary conviction thereof by a police magistrate to a penalty of not more than one thousand dollars for a first offence, and not more than two thousand dollars for a second or subsequent offence, and in case of either a first or a second or subsequent offence, either in default of payment of any penalty imposed, or in addition to such penalty, to imprisonment for a term not exceeding six months.

(2) The provisions of subsection (1) shall be deemed to apply mutatis mutandis, to any company save that the money penalties may be increased in the discretion of the magistrate to a sum not exceeding twenty-five thousand dollars.

No prosecution except with consent of Attorney-General. Part I of Board's Act incorporated.

(3) No prosecution under this Act shall be instituted except with the consent or under the direction of the Attorney-General.

13. The several provisions of Part I of the Board's Act are incorporated herewith and shall be applicable to the duties, powers and responsibilities of the Board hereunder except where inconsistent with the provisions of this Act.

Stock exchanges.

14. Every stock exchange and person or company in Manitoba furnishing facilities or conveniences for trading in securities shall be within the provisions of this Act and the regulations and may from time to time be suspended from carrying on operations within the Province for a period not exceeding ten days at any one time by order of the Board where, as a result of any investigation made under this Act such suspension is deemed necessary to prevent fraudulent acts. The power to make regulations shall include power to inspect, regulate and to provide the manner in which records are to be kept and trading carried on in stock exchanges or by any such person or company.

Regulations.

15. The Lieutenant-Governor in Council shall have power by order in council or by regulations approved by order in council to require every stock exchange, company or person carrying on business or trading in securities in the Province to be registered and may therein make exceptions, prescribe fees and penalties and define powers and procedure in respect of such registration.

Attorney-General may give notice of fraudulent acts.

16. The Attorney-General, upon being advised of any advertised or solicited sale of or trading in securities upon statement or terms not in accordance with the actual facts or conditions or of any fraudulent act in the offering of such securities may, after investigation of the facts by himself or the Board, and finding confirmation of such advice, give such notices, either personal or public, as may be deemed

by him necessary to prevent any injury to investors; and every notice given under this section by the Attorney-General shall be absolutely privileged.

17. This Act shall come into force on a day or days fixed by proclamation of the Lieutenant-Governor and the several sections thereof may be so proclaimed to come into force on different days.

MANITOBA

STATUTES OF MANITOBA 1926, CHAPTER 33, THE MUNICIPAL AND PUBLIC UTILITY BOARD ACT

CHAPTER 43

An Act to amend "The Municipal and Public Utility Board Act"

(Assented to March 16, 1928)

His Majesty, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

1. Section 105 of "The Municipal and Public Utility Board Act," being chapter 33 of the statutes of 1926, is amended by re-numbering the same as subsection (1) of section 105; section 106 is re-numbered as subsection (2) of 105; and to section 105 there is added the following subsection:

Section 105
amended by
adding
ss. (3).

(3) This section shall not apply to the city of Winnipeg.

Not
applicable to
Winnipeg.
New section
106.

2. The said Act is amended by adding thereto the following as section 106:—

106. The Board, after such notice and hearing as it deems proper and upon such terms and conditions as to costs or otherwise as it may fix, shall have power by order to vary, vacate, cancel or substitute, in whole or in part, any building restriction affecting any lands in the province of Manitoba howsoever created and may order the discharge or removal of any caveat recording such restriction. An order of the Board under this section shall have the same effect as if enacted by this Legislature in amendment of "The Real Property Act."

Caveats.

3. Section 156 of said Act together with the heading thereto is repealed and the following substituted therefor:

Section 156
substituted.

156. The Board in issuing a license under the preceding sections may limit the authority to sell securities under such license to the securities of a company or companies or of a class or classes specified in the license and may limit the term of such license and specify the locality in which securities may be sold thereunder. The fee for a license so limited may be reduced according to the nature of the limitation, but shall not in any event be less than five dollars.

Limitation
of license.

Ss. (1) of
sec. 157
amended.

4. Subsection (1) of section 157 of the said Act is amended by inserting immediately after the word "before" in the first line the words "or at any time after":

Section 158
substituted.

5. Section 158 of said Act is repealed and the following substituted therefor:

Licensee not
to advertise
license.

158. No licensee under this Part shall insert in any advertisement of himself or itself as a vendor or offerer of securities that he or it is so licensed or that the company whose securities are sold or offered for sale is the holder of a certificate or special certificate issued under this Part.

Par. (e),
ss. (1) of
sec. 160
amended.

6. Paragraph (e), subsection (1) of section 160 of the said Act is amended by substituting "to" for "of" in the first line.

Ss. (1) of
sec. 160
amended.
Prospector's
evidence of
indebtedness.

7. Said subsection (1) of section 160 is amended by adding thereto the following paragraph:—

(i) the disposal in good faith by an actual prospector of any evidence of indebtedness given by him for the purpose of financing a prospecting expedition, or for the purpose of disposing of any of his interest in a mining claim or property staked by or wholly or partly owned by him.

Section 161
amended.

8. Section 161 of said Act is amended by adding thereto the following as subsection (2):—

Building
Societies not
exempted.

(2) Nothing in this Act shall be construed to exempt building societies and companies commonly known as savings and loan associations, whether heretofore or hereafter incorporated under "The Manitoba Building Societies Act" or by or under any other Act of this Legislature from the provisions of this Part.

Section 165
amended.

9. Section 165 of said Act is amended by inserting after the word "Province" in the second line the words "and not having its head office in the Province".

New sections
added.

10. The said Act is amended by adding thereto the following heading and sections:—

MINING COMPANIES AND SYNDICATES

Certificates
not required
for sale of
mining
company
shares.

167A. (1) Subject to the provisions of this Part as to the licensing of salesmen of securities no certificate or special certificate referred to in sections 162 to 166 or in section 167 shall be required to authorize the sale, offer for sale, or issue of the shares, stocks, bonds and other securities of any company or syndicate whose chief business or object as set out in its charter is that of mining and which is actively engaged in the exercise of powers relating to the acquiring, developing, working, operating or managing of mines, mineral claims or mining properties, or the winning, gaining, treating, refining or marketing of minerals therefrom, and the like, when:

- (a) such mining company is incorporated or licensed by or under an Act of the Parliament of Canada or of the Legislature of this or any other Province and having its chief object or powers as above indicated; or
- (b) such mining syndicate is registered as provided in the next following section.

(2) Whether a company is a mining company and entitled to the exemption hereby provided shall be a question of fact for the Board in matters before it, or for a magistrate, judge or court in any prosecution, trial or hearing before him or it.

167B. Any mining syndicate or proposed mining syndicate consisting of not more than forty persons or the actual subscribed capital of which does not exceed twenty-five thousand dollars may be registered by the Board, in the discretion of the Board and subject to such conditions as it may prescribe, on application and by filing a copy of its articles of partnership, a copy of its trust deed, if any, particulars of the mines, mineral claims or mining properties held by it under lease, option, or otherwise, a statement showing the amount and terms of its capitalization or proposed capitalization, whether divided into shares of nominal value or otherwise, the number of such shares, units or memberships and the number issued or to be issued, the proportion of the proceeds of the allotment of such shares, units or memberships to be used for the development or operation of the undertaking, a prospectus or plan of the syndicate's scheme of operation and management, together with such other information as the Board may require, all verified to the satisfaction of the Board.

Certain
mining
syndicates
may be
registered.

167C. The Board may, in its discretion, issue to a mining syndicate, or to persons about to organize a mining syndicate, which has or who have filed the material heretofore required, a certificate of registration, which certificate shall operate as and be a validation of any term or clause in the articles of partnership of the syndicate, which purports to provide a limitation of the liability of the respective members or of the parties thereto, as from the date of such articles. Such certificate shall also render unnecessary any registration of the syndicate under "The Partnership Act."

Certificate of
registration.

167D. A copy, duly verified, of any alteration, amendment or variation of any document filed with the Board by a mining syndicate pursuant to which a certificate of registration has been issued, shall be filed with the Board forthwith after the making of such alteration, amendment or variation and any such alteration, amendment or variation shall be without effect until a copy thereof is filed. The Board may, however, exercise its discretion as to the acceptance or otherwise of any such copy offered for filing.

Amendments
to documents
to be filed.

11. Section 175 of said Act together with the heading thereto is repealed.

Section 175
repealed.

12. Subsection (5) of section 178 of said Act is repealed and the following substituted therefor:

Ss. (5) of
section 178
substituted.

(5) The fee for such special license shall in the first instance be twenty-five dollars, but the license may be renewed from year to year without further fee, except for the registration of the officials, members, salesmen and employees of the licensees, which fee shall be five dollars annually for each person so registered. Where the holder of the special license is an individual, he may be licensed and registered in the first instance upon payment of the fee for the special license.

Fees.

Ss. (3) of section 182 substituted.

By-laws of municipality amending by-laws of Winnipeg Municipal Suburban Board to be approved by Board.

By-laws in c. 108, S.M. 1927, to be amended only by Legislature.

13. Subsection (3) of section 182 of said Act is repealed and the following substituted therefor:—

(3) Any by-law passed or order made by the Winnipeg Suburban Municipal Board purporting to act for any municipality administered by it, other than the by-laws and orders of the said Board set out in the schedules to chapter 108 of the statutes of 1927, may be amended, varied, substituted or repealed by by-law of the municipality concerned, but any by-law making such amendment, variation, substitution or repeal shall not be effective until the same is approved by the Municipal and Public Utility Board, which approval may be given before the second reading, but shall be obtained before the third reading or final passing, of the said by-law. The by-laws and orders set out in the schedules to said chapter 108 shall not be amended or repealed save by Act of this Legislature, but in the event of any doubt or difficulty arising with respect to the interpretation of any of the clauses thereof, or as to the respective powers or duties of a municipal council and the supervisor thereunder, the Municipal and Public Utility Board may resolve such doubt or difficulty and may define powers and procedure.

14. This Act shall come into force on the day it is assented to.

MANITOBA

Revised Statutes of Manitoba, 1913, The Companies Act, Chapter 35.

PART III.—PREVENTION OF FRAUDULENT STATEMENTS BY COMPANIES.

False statement as to subscribed capital.

False statement as to incorporation, etc.

Penalty.

97. Where any advertisement, letter head, postal card, account or document, issued, published or circulated by any corporation, association or company, or any officer, agent or employee of any such corporation, association or company, purports to state the subscribed capital so actually and in good faith subscribed as aforesaid, or which contains any untrue or false statement as to the incorporation, control, supervision, management or financial standing of such corporation, association or company, and which statement is intended or calculated or likely to mislead or deceive any person dealing, or having any business or transaction, with said corporation, association or company, or with any officer, agent or employee or the association, corporation of company, shall, upon summary conviction thereof before any justice of the peace having jurisdiction where the offence was committed, be liable to a penalty not exceeding two hundred dollars and costs, and not less than fifty dollars and costs, and, in default of payment, the offender, being an officer, agent or employee as aforesaid, shall be imprisoned, with or without hard labour, for a term not exceeding six months and not less than one month, and, on a second or any subsequent conviction, he may be imprisoned, with hard labour for a term not exceeding twelve months and not less than three months. R.S.M. c.29,s.1.

Appointment of inspectors to examine affairs of company.

On request of shareholders of company having shares.

98. The Lieutenant-Governor in Council may appoint one or more competent inspectors for the purpose of examining into the affairs of any corporation, association, or company, and obtaining a report thereon, in the following cases, that is to say:—

(a) In the case of any company that has a capital divided into shares, upon application of members having not less than one-fifth part of all the shares for the time being issued;

- (b) In the case of any company not having a capital divided into shares, upon the application of members being in number not less than one-fifth of the whole number of persons for the time being entered on the registers of the company as members; On request of members of company not having shares.
- (c) In case it is made to appear that it is in the interests of justice that an inspection be had, then upon application of any one having, or claiming to have, any interest in the company. 2 Geo. V, c. 12, s. 1, part. On request of any person interested.

99. Every application for any of the purposes aforesaid shall be supported by such evidence as the Lieutenant-Governor in Council may require, and shall also show that the applicants have good reason for requiring such investigation to be made, and the applicant or applicants may also be required to give security for the payment of the costs of the inquiry. 2 Geo. V, c. 12, s. 1, part. Evidence in support of application. Security for costs.

100. It shall be the duty of the officers and agents of the company to produce for the examination of the inspectors all books and documents in their custody or power. Any inspector may examine on oath the officers and agents or any director or shareholder of the company in relation to its business or proceedings and may administer such oath accordingly. If any officer, agent, director or shareholder refuses to produce any book or document directed to be produced, or to answer any question relating to the affairs or proceedings of the company, he shall, on summary conviction before a justice of the peace, be liable to a penalty of not less than twenty-five dollars and not exceeding fifty dollars in respect of each offence. 2 Geo. V, c. 12, s. 1, part. Company to produce books and documents. Inspectors may take evidence on oath. Penalty for refusal to produce books or answer questions.

101. Where an inspector deems it necessary to examine under oath any officer, agent, director or shareholder of the company, he shall cause to be served upon the officer, agent, director or shareholder, at least forty-eight hours before the time fixed for such examination, an appointment in writing stating the time and place of such examination, and if the officer, agent, director or shareholder so served with such appointment shall fail to attend without good cause at the said time and place, he shall be liable to the same penalty as set out in the preceding section. 2 Geo. V, c. 12, s. 1, part. Notice of examination under oath. Penalty for failure to attend.

102. Upon the conclusion of the examination, the inspector or inspectors shall report his or their opinion on the several matters inquired into to the Lieutenant-Governor in Council. The Lieutenant-Governor in Council shall direct by whom and in what manner the costs of the inquiry shall be paid. 2 Geo. V, c. 12, s. 1, part. Inspector to report. Costs.

103. The Lieutenant-Governor in Council may appoint Counsel to advise with and act for the inspectors in any case in which it is necessary or in the interests of justice so to do. 2 Geo. V, c. 12, s. 1, part. Counsel.

104. The inspectors, or anyone acting with them or by their direction, shall not divulge or make known in any way the fact that they are making an inspection or examination of the affairs of the company, except as may be necessary in conducting the same and in the report thereof to the Lieutenant-Governor in Council. 2 Geo. V, c. 12, s. 1, part. Fact that inspection is being made not to be divulged.

Prosecutor.
Application
of fine.

105. Anyone may be prosecutor or complainant under this part, and one-half of any fine imposed shall, when received, belong to His Majesty for the use of the Province, and the other half shall belong to the prosecutor or complainant. R.S.M., c. 29, s. 2.

MANITOBA

STATUTES OF MANITOBA, 1926, CHAPTER 33, THE MUNICIPAL AND PUBLIC UTILITY BOARD ACT

PART IV

THE REGULATION OF SALES OF SHARES AND OTHER SECURITIES

Salesmen of Securities

LICENSES

Salesmen
must be
licensed.

151. No contract shall be made or agreed or attempted to be made in Manitoba by any natural person (excepting only those persons to whom, as hereinafter provided, this section does not apply), either on his own behalf or as the agent or broker of another person, or as an agent, employee, member or officer of a company, whereby he sells or offers or agrees to sell, or directly or indirectly attempts to sell, any shares, stocks, bonds or other securities of any kind whatsoever, unless he first obtains, in the manner hereinafter provided, a license from the Municipal and Public Utility Board so to do.

Procedure
to procure
license.

152. Every such license shall be obtained from and issued by the Board upon application therefor upon such form as it shall provide for the purpose. The applicant shall furnish to the Board in writing upon the application form, or otherwise if the Board so directs, his undertaking to comply with all the provisions of this Part and also such information respecting the name, personal description, postal or business address of the applicant, the kinds or classes of securities proposed to be sold or offered for sale by him and the place or places in the Province where the same are to be offered for sale, together with such further material or information and verified in such manner as the Board may require.

Additional
information.

153. The Board may at any time and from time to time during the currency of any license issued pursuant to any such application require information additional to the foregoing to be given it in writing, upon oath or otherwise, as well as the production for examination by the Board of any contract or agreement given by or in favour of the licensee respecting the terms or conditions under which any securities were sold or are offered for sale by the licensee.

Fee.

154. (1) The fee for every such license shall be fifteen dollars. No such license shall be issued until such fee is paid and the Board is satisfied that the provisions of this Part are being and are likely to be complied with by the applicant. The Board may refuse to issue a license to any applicant therefor, and a license may be refused to any person who does not prove himself to the Board in its sole discretion a bona fide resident of this Province.

Refusal of
license.

(2) Every such license shall bear upon its face its consecutive number, the date of issuance and such other particulars as the Board may direct and shall expire on the thirty-first day of December next following the date upon the face thereof. Expiry.

(3) No such license shall be transferable; and every such license in the possession of any person other than the licensee named therein shall, during such possession, be null and void. Non-transferable.

(4) Every license so issued shall be produced and exhibited on request to any prospective purchaser of securities offered for sale by the licensee, to any member or employee of the Board, or to any constable or other peace officer on duty. The failure or refusal of any person to so produce and exhibit a license shall be prima facie evidence that such person is not the holder of a license under this Part. Production on request.

155. (1) A license of like effect to the foregoing when applied for, issued and otherwise obtained in compliance with the foregoing provisions may be issued by the Board to the members, officers or employees, collectively, of a company, which license, when duly issued, shall be authority to such company to sell securities or offer securities for sale, wholly or partly as its business. License to salesmen of company.

(2) The Board in issuing a license under this section may limit the number of persons, whether as members, officers or employees of the company, who may be permitted to act as salesmen of securities in the business of such company. The names of all such persons shall be written on the license and the same or any of them may be removed by the Board, or the number thereof reduced or increased during the currency of the license, upon application and the compliance with the provisions hereof on the part of the company. The Board may refuse to permit any particular person to be employed in selling securities for, or to have his name written on any such license. Names on such license.

(3) A member, officer or employee of a company whose name appears on and has not been removed from any such license shall not, as an individual, require a license under the preceding sections other than as provided in this section. No additional license required.

(4) No member, officer or employee of a company whose name is not on such a license, issued for the then current year, shall sell or offer or agree to sell any securities whatsoever. Prohibition.

(5) The company, to the members, officers and employees of which any such license has been issued, shall be responsible for the actions and undertakings of its members, officers and employees, but this provision shall not render any such member, officer or employee exempt from any penalty provided for the violation of any provision of this part. Responsibility of company.

(6) The fee for a license under this section shall be the amount equal to the number of names upon the license multiplied by the fee under the last preceding section. Company fee.

PERMITS

156. (1) Any person who desires to sell or offer for sale any shares, stock or other securities held in his own name, or as executor or administrator of the estate of a deceased person, for the purpose of disposing of the same and otherwise than as a part of his business Permits for individual sales.

or occupation, shall before doing so obtain a permit to do so from the Board. Such permit shall be issued upon such application and upon such form as the Board may in any given case approve. The permit shall set forth the shares or securities to be sold under its authority and no other securities may be sold under any such permit than those therein described.

Fees.

(2) There shall be paid to the Board for every such permit such nominal fee based on the market value of the securities proposed to be sold under it as the Board may demand for its clerical services in issuing the permit. No such fee shall exceed one dollar. Notwithstanding the foregoing the Board may issue any such permit without the payment of any fee if in its discretion it sees fit to do so.

Fee not to be charged to purchaser.

(3) No fee paid for a permit under this section shall be charged to or collected from the purchaser of the securities named in the permit. The violation of this subsection shall be an offence against this Part and the permittee and the purchaser of any of such securities shall each be liable for such violation.

Sales within law

(4) The sale by a permittee of any of the securities named in any such permit shall not be deemed a violation of the preceding sections of this Part.

BONDS BY LICENSEES

Board may require bond.

157. (1) The Board before issuing any such license or permit may require the applicant to furnish to the Board the bond of a bonding or guarantee company, duly authorized to carry on its business in the province, or his personal bond with good and sufficient sureties, approved by the Board, in such penal sum and conditioned for the faithful performance of the person bonded of any undertaking given by him to the Board or to a purchaser of securities from him, or against the subsequent disclosure of falsity in any term of his application for a license or any information or report furnished him to the Board, or against the revocation, as hereinafter provided, of his license, or conditioned in such other manner, and for such period of time as the Board shall require or approve.

Bond of company for its salesmen.

(2) Any such bond may be furnished by a company applicant in respect of its members, officers or employees; but the company shall be made liable therein for the performance of the conditions thereof by all its members, officers and employees so bonded.

Enforcement of bond.

(3) If the Board is satisfied, by such evidence as it may require, that any bond furnished it under this section should, because of misconduct of any person so bonded, be forfeited, it may take proceedings to enforce the same for the benefit of any person or persons interested therein, or may assign the bond to any person who appears to the Board to have suffered pecuniary loss by reason of such misconduct or is otherwise interested in having the bond enforced.

Advertisements by licensees.

158. (1) Every person licensed under the foregoing sections and a company whose members, officers or employees are so licensed shall in any advertisement of himself or itself as a seller of securities insert in such advertisement information to the public that he or it is so licensed, giving the number of the license. The Board may direct that all such insertions be according to a form prescribed by it and thereafter such form shall be used in such advertisements.

Prohibition.

(2) No person or company whose officers, members or employees are not so licensed shall advertise or hold him or its self out as being so licensed, and no printer, publisher, newspaper proprietor or

other person shall print, publish or advertise in this province any such advertisement for a person or company not so licensed. The breach of this subsection shall be a violation of this Part.

159. (1) The secretary of the Board shall keep or cause to be kept a register of all licenses and permits issued in each calendar year under the preceding sections of this Part, which shall contain such entries pertaining to the licensee or permittee and the issue and disposal, if any, of the license or permit as the Board shall direct to be entered therein.

Register of
licenses and
permits.

(2) Such register shall be open to public inspection on payment of the searching fee, if any, prescribed.

Public
inspection.

(3) Every extract from such register or copy of an entry or entries therein or statement that there is no entry therein, or that no license or permit has been issued in the name of any stated person and certified as to the correctness thereof by or over the signature of a member of the Board or the secretary shall, without proof of the signature of such member or the secretary, or of his official character, be prima facie evidence in all courts of this province of the facts therein stated.

Extracts
from
register.

PERSONS EXEMPTED

160. (1) The foregoing sections of this Part shall not apply to any person who sells or offers for sale any security:

Who need
no license.

(a) as a member, official or employee, when in the performance of his duties as such, of the Government of Canada or of any Province or Territory of Canada, of a county, municipal or school council or board, of a local improvement, water, drainage, parks, or other like public board or district in Canada; or

Governments,
councils,
boards, etc.

(b) at any judicial executor's, administrator's or guardian's sale, or at any sale by a receiver or trustee in insolvency or bankruptcy; or

Legal sales.

(c) by or for the account of a pledge-holder or mortgagee acting in the ordinary course of his business and to liquidate a bona fide debt, if the security sold or offered for sale was pledged in good faith as security for such debt; or

Pledgee.

(d) in the distribution by a corporation of capital stock, bonds or other securities to its stockholders or other security holders as a stock dividend or other distribution out of earnings, surplus or capital; or the issue of securities to the security holders or other creditors of a corporation in the process of a bona fide reorganization of such corporation made in good faith, or the issue of increased capital stock of a corporation sold or distributed by it entirely among its own stockholders, where no commission or other remuneration is paid or given, directly or indirectly, in connection with the sale or distribution of such increased capital stock; or

Company
distributions.

(e) in the sale, transfer or delivery of any bank, loan company, trust company, insurance company or to any broker or dealer; provided, that such broker or dealer is actually engaged in buying and selling securities as a business, and is licensed hereunder so to sell; or

Sales by
banks,
brokers, etc.

Company
mergers.

Single
transaction
by exempted
company.

Trustee
securities.
Discretion
of Board.

- (f) in the transfer or exchange by one corporation to another corporation of their own securities in connection with a consolidation or merger or such corporations; or
 - (g) in an isolated transaction in which any security of a corporation or company referred to in the next following section is sold, offered for sale, subscription or delivery, under the provisions of said section, by the owner thereof, or by his representative for the owner's account, such sale or offer for sale, subscription or delivery not being made in the course of continued and successive transactions of a like character by such owner, or on his account by such representative; or
 - (h) in which a trustee may lawfully invest trust funds.
- (2) The foregoing sections of this Part shall not apply to a person who is offering for sale shares or securities for the sale of which in the opinion of the Board no license should be required and the Board so orders.

SALES OF SECURITIES

Application.

Government,
municipal,
etc.,
securities.

Certain
corporations.

161. Subject to what is contained in this section the provisions of this Part following this section shall not apply:

- (a) to the sale of any debentures, bonds, stocks or other securities issued or guaranteed by the Dominion of Canada or by any Province thereof, or by the government of any foreign country, or issued by any county, city, town, village, municipality, school district or local improvement, water, telephone, irrigation, hospital, parks or drainage district or board in any Province or Territory of Canada; or
- (b) to the debentures, bonds, stocks or securities of any corporation or company incorporated by or under the authority of the Parliament of Canada or of the Legislature of this Province or licensed under "The Companies Act" or "The Manitoba Insurance Act," or subject to taxation under "The Corporations' Taxation Act" or "The Railway Taxation Act," if and only when any such corporation or company, or its officers or agents, or any person who owns shares, stocks, bonds or securities thereof, sells or attempts to sell any such debentures, bonds, stocks or securities otherwise than in the course of continued and successive acts of a like character. The printing, publication, or advertisement in any newspaper, magazine or other periodical, or by any other means of display whatsoever, or the issue, putting forth or distribution of any advertisement, circular letter or other paper containing any offer to sell or solicitation to purchase or intimation of the fact of the issue of any of such shares, bonds, stocks or other securities, or solicitation by agents or employees, shall be evidence of an attempt to sell in the course of such continued and successive acts and in violation of this Part. Pursuant to any such or other evidence of an attempt to sell or of sales made of any of its securities by any such corporation or company or its officers or agents in the course of such continued and successive acts, the Board may order that the immunities provided by this section shall no longer apply to the securities of the corporation or company concerned and thereupon such corporation or company and its securities shall be subject to the following and its officers and agents to the foregoing, sections of this Part.

- (c) to the sale of any debentures, bonds, stocks or other securities of or issued, allocated or guaranteed by any corporation, loan company or building society in the debentures, bonds, stocks or other securities of which a trustee may lawfully invest any trust fund. Trustee securities.

162. No person, firm or corporation shall sell or offer or agree to sell, or directly or indirectly attempt to sell, in Manitoba, any shares, stocks, bonds or other securities of or issued by any company unless the company has first been approved by the Board as one of the securities of which are permitted to be sold in Manitoba and a certificate to that effect, as hereinafter provided, issued by the Board. Company to be approved by Board.

PROCEDURE TO OBTAIN PERMISSION TO SELL

163. (1) Every company or any person desiring to sell any shares, stocks, bonds or other securities of any kind or character of a company, shall, before offering or attempting to sell the same, apply to the Board upon such form as it shall provide, for its permission so to do and file in the office of the Board, together with the filing fee prescribed, the following:— Material to be filed.

- (a) a statement of the name and location (head office, etc.) and the place (state, province, etc.) of the incorporation or registration of the company;
- (b) an itemized account of the actual financial condition of the company and the amount of its property and liabilities, and such other information touching the affairs of the company as the Board may require;
- (c) a statement showing in full detail the plan upon which the company proposes to transact business; and
- (d) a copy of all contracts, bonds or other instruments which it proposes to make with or sell to its contributors.

(2) In the case of a partnership or an unincorporated association, it or such person shall also file with the Board a copy of its articles of co-partnership or association, and all other papers pertaining to its organization. Partnerships.

(3) If the company, whether incorporated or unincorporated, is not organized under the laws of this Province, it or such person shall also file with the Board a copy of the laws of the state, province, country, territory or government under which it exists or is incorporated, and also a copy of its charter, articles of incorporation, constitution and by-laws and all amendments thereof which have been made and all other papers pertaining to its organization. Extra-provincial corporations.

164. (1) All of the above described papers shall be verified by oath of a member, in the case of an unincorporated partnership or company, or by the oath of a duly authorized officer, if it be an incorporated company. All such papers, however, as are recorded or are on file in any public office shall be further certified to by the officer of whose records or archives they form a part, as being correct copies of such records or archives. Verification.

(2) No amendment of the charter, articles of incorporation, constitution or by-laws of any company not organized under the laws of this Province shall be come operative in Manitoba until a copy of Charter amendments.

the same has been filed with the Board as provided in regard to the original filing of charters, articles of incorporation, constitution and by-laws.

(3) A company shall not transact business on any other plan than that set forth in the statement required to be filed under the last preceding section, or make any contracts other than those shown in the copy of the proposed contracts required to be filed by said section, until a written statement, showing in full detail the proposed new plan of transacting business, and a copy of the proposed new contract shall have been filed with the Board, in like manner as provided in regard to the original plan of business and proposed contract, and the consent of the Board, obtained as to making such proposed new plan of transacting business and proposed new contract.

Consent to
action
against
company.

165. Every company not organized under the laws of this Province, shall also file its written consent, irrevocable, that actions may be commenced against it in the proper court of any judicial district or judicial division in which a cause of action may arise or in which the plaintiff may reside, by the service of process on the Provincial Secretary, and stipulating and agreeing that such service of process on the Provincial Secretary shall be taken and held, in all courts, to be as valid and binding as if due service had been made upon the company itself, according to the laws of this or any other Province, and such instrument shall be authenticated by the seal of said company and by the signature of a member in the case of an unincorporated partnership or company, or by the signatures of the president and secretary if it be an incorporated company, and shall be accompanied by a duly certified copy of the order or resolution of the board of directors, trustees or managers of the company authorizing the said secretary and president to execute the same.

DUTIES OF BOARD

Examination
of material
filed.

166. (1) The Board shall examine the statements and documents so filed, and if deemed advisable, make or have made a detailed examination of such company's affairs, which examination shall be at the expense of such company or person desiring to sell the said shares, stocks, bonds or other securities, as hereinafter provided; and if the Board finds that such company is solvent, that its articles of incorporation or association, its constitution and by-laws, its proposed plan of business and proposed contracts contain and provide for a fair, just and equitable plan for the transaction of business, and in the judgment of the Board, promise a fair return on the shares, stocks, bonds and other securities by it or by such person offered for sale, the Board may issue to such company or person a certificate reciting that such company has complied with the provisions of this Act, that detailed information in regard to the company and its securities is on file in the office of the Board for public inspection and information, that such company is permitted to sell its securities in this province, and such certificate shall also recite in bold type that the Board in no wise recommends the securities to be offered for sale by such company.

Certificate.

When certi-
ficate
refused.

(2) If the Board finds that such articles of incorporation or association, charter, constitution and by-laws, plan of business or proposed contracts contain any provisions that are unfair, unjust,

inequitable or oppressive to any class of contributors, or if it decides from its examination of its affairs that said company is not solvent and does not intend to do a fair and honest business, and in the judgment of the Board does not promise a fair return on the shares, stocks, bonds or other securities by it or by such person offered for sale, then the Board shall notify such company or person in writing of its findings, and it shall be unlawful for such company, or any agent on its behalf, or any such person, to sell or offer for sale in this province any of such shares, stocks, bonds or other securities, until the company shall so change its constitution and by-laws, articles of incorporation or association, its proposed plan of business and proposed contracts and its general financial condition in such manner as to satisfy the Board that it is solvent, and that its articles of incorporation or association, its constitution and by-laws, its proposed plan of business and proposed contracts provide for a fair, just and equitable plan for the transaction of business, and that it does, in the judgment of the Board, promise a fair return on the shares, stocks, bonds and other securities by it or by such person offered for sale.

(3) All expenses paid or incurred, and all fees or charges received or collected for any examination made under the provisions of this section of this Act, shall be reported in detail by the Board to such company or person and a full report and record thereof made in the books of the Board. Report of expenses.

(4) Upon any application made to the Board it may grant a certificate under this Act in respect of any class or classes of stocks, bonds, shares or securities of a company, and exclude the others therefrom. Limited Certificate.

DEVELOPMENT STOCK

167. (1) For the purpose of facilitating commercial, industrial and mining undertakings in Manitoba, including boring for oil, gas, salt or other natural deposits, it is enacted that whenever it shall appear that a company, whose undertaking, being of the nature aforesaid, has not been developed, and that it is therefore not known that a fair return is promised upon its shares, stocks, bonds or securities, so as to justify the issuing of a certificate under the last preceding section, such company may apply for a special certificate, in respect of shares, stocks, bonds or securities, and permitting the offer by the company to the public for purchase of shares, stocks, bonds or securities of the company. Application for special certificate.

(2) The Board may grant such special certificate upon the company establishing to its satisfaction that the proceeds of all sales of the unissued stock or securities of said company will be paid to an incorporated or licensed trust company, or other trustee, in Manitoba, approved of by the Board, less a deduction in the Board's discretion for commission for the sale of such stock and reasonable expenses incident to the office management of the company and advertising, and in trust to apply such net proceeds to the development or operation of the undertaking or the company only. When granted.

(3) Before such special certificate is granted the Board shall require a prospectus to be filed with it setting forth the amount paid for the property in cash or in stock, the amount of vendors' and treasury stock, the names of the directors of the company, and a Prospectus.

description of the property, with such reports in full as are available. All advertising must conform to the facts set forth in the prospectus and must specify that the prospectus is on file for reference at the office of the Board.

Stock other than for development purposes.

(4) Any such company may apply for and obtain a special certificate allowing the sale of its shares, stocks, bonds or securities other than development shares upon filing proof with the Board that the development work referred to in this section and so far carried out has demonstrated that there is a reasonable prospect of a return on the investment to the purchaser of such shares, stocks, bonds or securities.

"Development Stock" on share certificate.

(5) Certificates for shares offered for sale pursuant to the provisions of subsection (2) of this section and all certificates for such shares subsequently issued upon successive transfers thereof shall have conspicuously written or printed on the face of them the words "Development Stock".

Stipulations, etc.

(6) Any stipulation, condition or restriction imposed by any such special certificate or made the basis of the grant thereof may be invoked by any person who purchased shares, stocks, bonds or securities of the nature described therein, as if such stipulation, condition or restriction were assumed by contracts made with him by the company or persons upon whom such stipulation, condition or restriction has been imposed.

Prohibition.

(7) Such special certificate shall not authorize the sale of such shares, stocks, bonds or securities comprised in such special certificate by any person other than the company issuing the same, and such sale shall not be made by any other persons, until a certificate shall have been granted in respect of the shares, stocks, bonds or securities of the company under section 166 hereof.

HEARINGS BY FULL BOARD

When application to quorum.

168. (1) If any application for a license or certificate or special certificate which may be issued under this Part is heard by a quorum of the Board in the first instance and such quorum after hearing and consideration is unanimous as to the determination which should be made thereof, the determination made accordingly shall be final and shall be acted upon by the Board.

Disagreement of quorum or inquiry by single member.

(2) If such quorum is not agreed as to the determination which should be made, or if the application is in the first instance inquired into by a single member of the Board and it is his opinion that the license, certificate or special certificate should not be issued, a report thereof in detail shall be made to the Board; the applicant in either such case shall be notified accordingly and if he requests a hearing of the full Board a time shall be fixed for such hearing.

Determination by full Board.

(3) At such time or subsequent time or times, if any fixed by adjournment, any vacancy or vacancies in the Board having in the meantime been filled in the manner hereinbefore provided for, the Board, all the members thereof being present, after hearing and consideration shall determine the matter, and the decision of two members thereon shall be final and shall be acted upon by the Board.

Appeal.

(4) Nothing in this section shall be construed as taking away the right of appeal hereinbefore provided.

AGENTS

169. Any company or person having obtained the Board's certificate or special certificate referred to in the preceding sections may appoint one or more agents to sell the shares or securities of the company, but no such agent shall do any business of the nature aforesaid for said company or person in this province until he shall obtain a license under, and otherwise comply with, the provisions of this Part relating thereto.

Company
agents.

RETURNS BY COMPANIES

170. (1) Every company respecting which a certificate or special certificate has been issued under the foregoing provisions shall file with the Board, at least once in every period of twelve months, and at such other times as required by the Board, a statement verified by the oath of a member of the company, if it be a partnership or unincorporated, or by the oath of a duly authorized officer, if it be an incorporated company, setting forth in such form as may be prescribed by the Board, its financial condition and the amount of its assets and liabilities, and furnishing such other information concerning its affairs as the Board may require. Each such statement shall be accompanied by the filing fee prescribed hereunder.

Annual
and other
returns.

(2) Any such company failing to file such statement as aforesaid, or failing to file any other or special report herein required within thirty days after receipt of request or requisition therefor, shall forfeit its right to continue its business of selling its shares, stocks, bonds or other securities in this province, and no person shall thereafter sell or offer to sell any of the shares, stocks, bonds or other securities of such company.

Penalty.

SPECIAL POWERS OF BOARD

171. (1) Whenever it shall appear to the Board that the assets of any company respecting which a certificate or special certificate has been issued hereunder have become impaired to the extent that such assets do not equal its liabilities or that it is conducting its business in an unsafe, inequitable or unauthorized manner, or is jeopardizing the interest of its stockholders or investors in shares, stocks, bonds or other securities by it offered for sale, or whenever any such company shall fail or refuse to file any papers, statements or documents required by this Act, without giving satisfactory reasons therefor, the Board may suspend or revoke such certificate or special certificate, as the case may be.

Improper
management
of company.

(2) The Board shall also at once communicate the facts relating to company aforesaid to the Attorney-General, who may thereupon apply to or authorize the Board to apply to the Court of King's Bench, or a judge of said court, for the appointment of a receiver to take charge of and wind up the business of such company, and if such fact or facts be made to appear it shall be sufficient evidence to authorize the appointment of a receiver and the making of such orders and decrees in such cases as the said court or judge may seem meet.

Report to
Attorney-
General.

172. (1) Every company to which this Part applies shall, as to matters within the jurisdiction of this Legislature, be subject to examination by the Board, or its duly authorized officer or officers,

Examination
of companies
by Board.

at any time the Board may deem it advisable, and the Board may for that purpose exercise the powers of investigation, and powers incidental thereto, specified in Parts I and III of this Act and the rules made thereunder, and if the Board shall see fit it may order that such company, or any applicant for such examination, shall pay the costs and expenses of such examination, to be fixed by said Board.

Costs and expenses.

(2) Such and all other costs and expenses under this Part may be recovered in the manner authorized for the recovery of costs and expenses under said Parts and in addition thereto the failure or refusal of any such company to pay such costs and expenses shall be sufficient cause for the revocation of any certificate or special certificate issued to it or license granted hereunder to any of its agents.

SUSPENSIONS AND REVOCATIONS

General power of revocation.

173. (1) In case of the violation of or failure to observe any terms of any application or undertaking, information or report made or furnished to obtain any authorization, license, permit, certificate or special certificate granted or issued under this Part, or the violation of or failure to observe any condition, restriction or stipulation therein or to which any of the same is subject, or for any cause in this Part set out or which seems to it sufficient, the Board may revoke any such authorization, license, permit, certificate or special certificate.

Suspension.

(2) The Board, or its chairman, may of its or his own motion, or upon the complaint of any person, suspend any such authorization, license, permit, certificate or special certificate for such period as may be expedient pending inquiry by the Board. Notice of such suspension shall be given the person or company affected forthwith. During such period the Board shall inquire into the circumstances or complaint, at which inquiry such person or company and other persons having knowledge of such circumstances or complaint may be heard. If, as a result of its inquiry, or if the person or company affected takes no steps to have the suspension revoked or consents in writing, or orally before the Board, to any order relating thereto the Board may deem it advisable to make, the Board may withdraw such suspension or revoke the authorization, license, permit, certificate or special certificate of such person or company and take such proceedings as may be deemed requisite as regards the enforcement of the bond, if any, furnished by or for a licensee affected thereby.

Effect.

(3) During any such suspension and after any such revocation the person or company affected shall be deemed not to be the holder of the authorization, license, permit, certificate or special certificate, as the case may be, so suspended or revoked.

Publication.

(4) The fact of any such revocation made by the Board may be published by it in *The Manitoba Gazette* and in such other manner as the Board deems expedient.

Notice to person affected.

(5) Notice of every such revocation shall be served upon the person or company affected, if he or it can be located, unless he or it was present or represented at the inquiry when the revocation was determined upon or made, and after such revocation or suspension any securities sold by or on behalf of such person or company shall be held to have been sold unlawfully and in violation of this Part.

REMEDIES OF PURCHASER

174.(1) The purchaser of any shares, stock or other securities sold in violation of this Part, unless at the time of such purchase he had or upon reasonable grounds should have had knowledge of such violation, may, within one year after such purchase, by notice in writing to the Board (receipt of which notice shall be forthwith given by the Board to the company, if it can be located, whose securities were so purchased) disavow his liability thereunder. Disavowal of liability.

(2) By such disavowal such purchaser shall have and is hereby granted a right of action against the company, the shares, stock or securities of which were so purchased, and the salesman who sold the same, for the recovery of any moneys paid by him to such company or on its behalf to the salesman in respect of such purchase prior to his knowledge that the same was made in violation of this Part (less such amount as he may have received or be entitled to receive under any bond furnished by or for the salesman), which right of action shall be exercised within two years from the date of such purchase, or within such further period as may be fixed by a judge of the court within the jurisdiction of which the action may be brought. Action for money paid.

(3) Such disavowal shall also be, and may be pleaded as a defence to any action against such purchaser to recover any unpaid balance of the purchase price or call or calls in respect of shares, stock or securities applied, subscribed or contracted for by him in such purchase. Defence if sued for balance.

ADVERTISEMENTS

175. No printer, publisher, newspaper proprietor or other person shall print, publish or advertise in this Province, in any newspaper, magazine or other periodical printed and published in this Province, or otherwise in this Province issue, put forth or distribute, any advertisement, circular, letter or other document containing any offer to sell or solicitation to purchase any bonds, debentures, shares, stock or other securities, unless the company, corporation, association or syndicate whose bonds, debentures, shares, stocks or other securities so offered for sale shall have first obtained from the Board the certificate or special certificate hereinbefore provided for. Printing to be only after certificate issued to company.

176. The Board may in its discretion give such publicity or advice to the public in *The Manitoba Gazette* or otherwise as it deems advisable respecting securities which in its opinion should not be sold in the Province. Publicity by Board.

PENALTIES

177. Any person who shall do anything forbidden by or in violation of this Part or declared by this Part to be unlawful, for which no other penalty is provided shall, on summary conviction, be liable to a fine of not less than fifty dollars, nor more than five hundred dollars, with costs, and, in default of payment, to imprisonment for a term not exceeding six months. General penalty.

INVESTMENT BROKERS

178. (1) In order to preserve the facilities for investment in bonds, stocks, shares and securities of reputed value, it is declared that the Board may, on application supported by such evidence as it may require, grant special license to persons, firms or corporations Special licenses for recognized bond dealers.

who are members of the Winnipeg Stock Exchange or of the Investment Bankers' Association of Canada and may on application supported by such evidence as it may require grant special licenses to any persons, firms or corporations, of known responsibility who or which are permanently established in this Province, whose business includes that of brokers or financial agents, exempting in either case the special licensee therein named and their officers, employees, or salesmen and the transactions and dealings in securities instituted or carried out by them, during the continuance of such special license, from all the provision of Part IV of this Act, and section 175 hereof shall not apply to the advertisements of any such special licensee.

Registration
of officials.

(2) All active officers, employees or salesmen of such special licensees shall be registered with the Board, in manner directed by the Board, and any officer, employee or salesman not so registered shall not be entitled to said exemption.

Suspension
and cancella-
tion of
special
licenses.

(3) In case it shall be made to appear to the Board that any licensee shall have disposed of fraudulent or worthless bonds, stocks, shares or securities, the Board shall have power, without hearing, to suspend and after notice and inquiry to rescind, cancel or reinstate such special license or to revoke and cancel or reinstate the registration of any officer, employees or salesmen so offending.

Exception of
specified
securities.

(4) The Board may at the time of issue of such special license or subsequently by its order, except from the said exemption the bonds, stocks, shares and securities of any designated corporation, syndicate or firm, or bonds, stocks, shares or securities of any particular class.

Fees.

(5) The fee for such special license shall be the sum of twenty-five dollars and the fee for the registration of the officers, members and employees shall be five dollars for each person so registered.

REPEAL

C.A. c. 175
repealed.

179. (1) "The Sale of Shares Act" with all its amendments is hereby repealed.

Citations.

(2) Notwithstanding such repeal any citation in a statute or reference in any agreement or contract enforceable in this Province to "The Sale of Shares Act" shall be deemed a citation of or reference to this Part.

(3) If this Part is proclaimed to come into force before the Board provided for in Part I is appointed, this Part shall be administered by the Public Utility Commissioner, who shall have all the powers of the Board under this Part. For the purposes of section 168 the Lieutenant-Governor-in-Council may appoint two persons who with the said commissioner shall have the powers of the Board under said section until the Board provided for in Part I is appointed. In the event of this Part being proclaimed to so come into force the definition of Part I shall be applicable to this Part and any fees referred to in this Part may be fixed by Order of the Lieutenant-Governor-in-Council, which fees shall have effect until others are prescribed by the Board.

BRITISH COLUMBIA

1929, CHAPTER 25

An Act Respecting Companies

DIVISION (2)—COMMENCEMENT OF BUSINESS BY PUBLIC COMPANY

40. (1) A public company which does not issue a prospectus on or with reference to its formation or organization for business shall not allot any of its shares or debentures or commence any business or exercise any borrowing-powers, unless the company has filed with the Registrar a statement in lieu of prospectus according to Form 3 in the Second Schedule, and the Registrar has issued under his seal of office a certificate that the company is entitled to commence business. Restrictions on company where prospectus not issued.

(2) Where the statement in lieu of prospectus contains particulars of any contract under which shares or debentures are to be allotted by the company as the consideration for property or for services or other consideration than cash, the contract or, where the contract is not reduced to writing, full and exact particulars of the contract shall be filed with the statement in lieu of prospectus.

(3) The Registrar shall, on the filing of the statement in lieu of prospectus and such contract or particulars as are mentioned in subsection (2), issue under his seal of office a certificate showing that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled.

(4) For the purposes of Form 3 in the Second Schedule, the expression "vendor" shall have the meaning assigned to it by subsections (4) and (5) of section 127.

(5) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

(6) Any condition requiring or binding an applicant for shares or debentures to waive compliance with any requirement of this section shall be void.

(7) Every company which acts in contravention of this section shall be guilty of an offence against this Act.

(8) A company which has filed a prospectus under section 41, but has not proceeded to allot any shares or debentures offered by that prospectus, and determines not to make a fresh offer of shares or debentures to the public, may proceed under this section.

(9) This section shall not apply to a company incorporated before the first day of July, 1910, or to a company which has under any former Companies Act or this Act obtained a certificate entitling it to commence business, or to a company which has before the commencement of this Act filed with the Registrar a statement in lieu of prospectus under the "Companies Act, 1921," but has not obtained under that Act a certificate entitling it to commence business, and such last-mentioned company shall, notwithstanding section 255, comply with and be subject to sections 33 to 36 of that Act, R.S., 1924, c. 38, ss. 31, 33.

Restrictions
on company
where pro-
spectus
issued.

41. (1) A public company which issues a prospectus on or with reference to its formation or organization for business shall not allot any shares or debentures or commence any business or exercise any borrowing-powers, unless:—

- (a) The company has filed the prospectus with the Registrar;
and
- (b) The requirements of section 128 have been complied with;
and
- (c) The company has filed with the Registrar a statutory declaration as prescribed by section 42; and
- (d) The Registrar has issued under his seal of office a certificate that the company is entitled to commence business.

(2) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of shares and debentures.

(3) Subsections (5) and (6) of section 40 shall apply to a company to which this section applies.

(4) Every company which fails to comply with or contravenes any provision of this section shall be guilty of an offence against this Act.

(5) This section shall not apply to a company incorporated before the first day of July, 1910, or to a company which has obtained under any former Companies Act or this Act a certificate entitling it to commence business, or to a company which has before the commencement of this Act filed with the Registrar a prospectus under the "Companies Act, 1921," and has not on or before that date obtained a certificate entitling it to commence business, but such last-mentioned company shall, notwithstanding section 255, comply with and be subject to sections 33 to 36 of that Act. R.S. 1924, c. 38, s. 31.

Issue of
certificate
to commence
business.

42. (1) When the minimum subscription fixed by a prospectus to which section 41 refers has been subscribed, it shall be the duty of the directors named in the prospectus to make a statutory declaration according to Form 4 in the Second Schedule, and the company shall file the declaration within one month from the date on which the minimum subscription is subscribed:

Provided that where a director is by reason of his absence from the Province or for other good reason prevented from performing his duties as a director in relation to the organization of the company pursuant to this Division, he shall not be required to make the statutory declaration aforesaid, but in lieu thereof a director or other officer of the company acquainted with the facts shall make a statutory declaration stating why that director was prevented from so performing his duties as a director.

(2) Upon compliance with this section, the Registrar may issue under his seal of office a certificate that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled. R.S. 1924, c. 38, s. 33.

Certain
contracts
not to be
varied before
statutory
meeting.

43. A public company shall not previously to the statutory meeting vary the terms of a contract referred to in the prospectus or statement in lieu of prospectus, except subject to the approval of that meeting. R.S. 1924, c. 38, s. 35.

44. (1) No shares or debentures of a public company allotted or issued or agreed to be allotted or issued to any person who is or has been engaged or interested in the formation or promotion of the company for property, services, or any consideration other than cash shall be transferred, sold, or in anywise dealt with or disposed of before the statutory meeting of the company is held pursuant to this Act, and no certificate of any such share or debenture shall be issued or delivered by the company until that meeting is held.

Certain shares, etc., not to be dealt with before statutory meeting.

(2) A transfer, sale, or other dealing in or disposition of shares or debentures contrary to this section shall be void.

(3) Every company and person who contravenes this section shall be guilty of an offence against this Act, and the directors of the company shall be liable to compensate the company and any person injured for any loss, damage, or costs which the company or such person may have sustained or incurred by a contravention of this section:

Provided that:—

- (a) A director shall not be liable if he proves that the contravention was not due to any misconduct or negligence on his part; and
- (b) Proceedings to recover any such loss, damage, or costs shall not be commenced after the expiration of two years from the date of the contravention. R.S. 1924, c. 38, s. 36.

45. (1) Every public company shall, within two months from the date at which the company becomes entitled to commence business, hold a general meeting of the company at which all members and all persons to whom shares have been allotted or whose applications for shares have been accepted shall be entitled to be present.

Statutory meeting and statutory report.

(2) The directors shall, at least seven days before the day on which the meeting is held, forward to every member of the company, and to every other person entitled under this section to receive it, a report certified by not less than two directors of the company and made up to a date not more than seven days before the date of the notice of the statutory meeting, and shall at the same time cause authenticated copies of the report and notice to be filed with the Registrar.

(3) The report shall state:—

- (a) The total number of shares or debentures allotted, distinguishing shares and debentures allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares or debentures partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;
- (b) The total amount of cash received by the company in respect of all the shares and debentures allotted, distinguished as aforesaid;
- (c) An abstract of the receipts of the company, and the payments made thereout, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses of the company;

- (d) The full names, addresses, and occupations of the directors, auditors (if any), managers (if any), and secretary of the company; and
- (e) The particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

(4) The report shall, so far as it relates to the shares and debentures allotted by the company, and to the cash received in respect thereof, and to the receipts and payments of the company, be certified as correct by the auditors (if any) of the company.

(5) The directors shall cause a list showing the full names, addresses, and occupations of the members and of all other persons entitled to be present at the meeting, and the number of shares or debentures held by them respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any member of the company during the continuance of the meeting.

(6) The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company, or arising out of the report, and to pass any ordinary resolution, whether previous notice has been given or not.

(7) The meeting may adjourn from time to time, and an adjourned meeting shall have the same powers as an original meeting.

(8) Every company which makes default in complying with any requirement of this section shall be guilty of an offence against this Act: Provided that the company, or any person liable for the default, may apply to the Court for relief, and the Court, if satisfied that such default was accidental or due to inadvertence, or that on other grounds it is just and equitable to grant relief, may make an order extending the time for compliance with this section for such period as the Court may think proper.

(9) Where an order is made under this section, an office copy thereof shall be filed with the Registrar at the same time as a meeting is called or a report is filed, as the case may be, pursuant to the order. R.S. 1924, c. 38, s. 34"

Prohibition
of issue of
forms of
application
unless
prospectus
is issued.

115. (1) It shall not be lawful to issue any form of application or subscription for shares in or debentures of a company offered to the public unless the form is issued with a prospectus filed under section 126 or 129:

Provided that this section shall not apply if it is shown that the form of application was issued either:—

- (a) In connection with a bona-fide invitation to a person to enter into an underwriting agreement with respect to the shares or debentures; or

- (b) In relation to the shares in or debentures of a company where there is no offer to the public; or
- (c) To existing members or debenture-holders of a company, whether an applicant for shares or debentures had or had not the right to renounce in favour of other persons.

(2) Every person who acts in contravention of this section shall, without prejudice to any other liability, be guilty of an offence against this Act. (New).

116. A public company which is required to obtain under section 40 or 41 a certificate entitling it to commence business and a private company which is converted under section 70 into a public company shall not allot within a period of three months from the date of the certificate issued to the company under one of those sections, as the case may be, or such longer period as the Registrar may for the purposes of this section fix, any shares as the consideration for property or services or other consideration than cash, unless particulars of the contract under which the shares are to be allotted are disclosed in the statement in lieu of prospectus or prospectus, as the case may be, filed in pursuance of one of those sections, and the contract or, where the contract is not reduced to writing, full and exact particulars of the contract are filed therewith, or until the company has filed with the Registrar a supplementary statement in lieu of prospectus according to Form 3 in the Second Schedule or a new prospectus in accordance with sections 126 or 129, disclosing in either case particulars of the contract, and has filed therewith the contract or full and exact particulars of the contract as aforesaid. (New).

Restrictions on allotments of shares for consideration other than cash.

117. (1) An allotment made by a company:—

- (a) To an applicant or allottee in contravention of the provisions of section 40 or 41 shall be voidable at the instance of the applicant within two months after the holding of the statutory meeting of the company and not later; and
- (b) In contravention of section 116 or 128 shall be void; and
- (c) Upon an application in contravention of section 115 shall be void;

Effect of irregular allotments.

and every such allotment as is mentioned in clauses (a) and (c) shall be voidable or void, as the case may be, notwithstanding that the company is in course of being wound up.

(2) Every director of a company who knowingly contravenes or permits or authorizes the contravention of any provision of section 40, 41, 116, or 128 with respect to allotment, or who knowingly acts upon an application in contravention of section 115, shall be liable to compensate the company and the applicant or allottee respectively, as the case may be, for any loss, damages, or costs which the company or the applicant or allottee may have sustained or incurred thereby: Provided that:—

- (a) A director shall not be liable if he proves that the contravention was not due to any misconduct or negligence on his part; and
- (b) Proceedings to recover any such loss, damage, or costs shall not be commenced after the expiration of two years from the issue of the share. R.S. 1924, c. 38, s. 31.

Allotments
of shares.

118. (1) Where a company makes any allotment of its shares, the company shall within one month thereafter file with the Registrar:—

- (a) A return of allotments, stating in respect of each share the date of allotment, the distinctive number, nominal amount or par value (if any), or, in the case of a share without nominal or par value, the price at which the share is sold, and class of share, the full name, address, and occupation of the allottee, the amount paid, and the amount or rate (if any) of commission paid or agreed to be paid under section 123, or, in the case of a specially limited company, of discount allowed or agreed to be allowed under section 124; and
- (b) In the case of shares allotted as fully or partly paid up otherwise than in cash, a return stating the number and nominal amount or par value (if any) of such shares, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted, together with any contract in writing constituting the title of the allottee to the allotment, and any contract of sale or for services or other consideration in respect of which that allotment was made, or, where such a contract as above mentioned is not reduced to writing, full and exact particulars of the contract, unless the contract or particulars thereof have already been filed with the Registrar.

(2) Where the company agrees to accept payment otherwise than in cash for shares subscribed for in the memorandum, or has allotted any shares payable in cash and subsequently agrees by such a contract as above mentioned to accept payment otherwise than in cash, the contract or (if the contract is not reduced to writing) full and exact particulars thereof shall be filed with the Registrar within one month from the date thereof.

(3) Every return of allotments shall be made according to Form 17 in the Second Schedule, and in the case of a contract not reduced to writing shall be accompanied by particulars according to Form 18 in the Second Schedule.

(4) Every company which makes default in complying with the requirements of this section shall be guilty of an offence against this Act:

Provided that:—

- (a) Where the default in filing any document as required by this section does not exceed seven days, and appears to the Registrar from the explanation thereof made to him by or on behalf of the company to be accidental or due to inadvertence, or is due to the fact that the document requires to be rectified, the Registrar may file the document, and the company shall be deemed to have complied with the requirements that the document be filed within one month after allotment; and
- (b) In any other case, the company, or any person liable for the default, may apply to the Court for relief, and the Court, if satisfied that the omission to file the document was accidental or due to inadvertence or that upon other

grounds it is just and equitable to grant relief, may make an order extending the time for the filing of the document for such period as the Court may think proper.

(5) Where an order is made under this section, an office copy thereof shall be filed with the Registrar at the same time as the document to which it relates. R.S. 1924, c. 38, s. 125.

119. A company shall file with the Registrar, within one month after any issue of debentures is made by the company, a statement setting forth the date and amount thereof and the amount or rate per cent of any commission, allowance, or discount paid or made either directly or indirectly by the company to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, or for procuring or agreeing to procure subscriptions, whether absolute or conditional, for any of the debentures, but an omission to do this shall not affect the validity of the debentures issued: Provided that the deposit of any debentures as security for any debt of the company shall not for the purposes of this provision be treated as the issue of the debentures at a discount. R.S. 1924, c. 38, s. 93.

Issue of
debentures.

120. A contract with a company to take up and pay for any debentures of the company may be enforced by an order for specific performance. R.S. 1924, c. 38, s. 106.

Specific
performance
of contract
to take
debentures.

121. (1) Where either before or after the commencement of this Act a company has redeemed any debentures previously issued, the company, unless any provision to the contrary, whether express or implied, is contained in the articles or in any contract entered into by the company, or unless the company has, by passing a resolution to that effect or by some other act, manifested its intention that the debentures shall be cancelled, shall have, and shall be deemed always to have had, power to reissue the debentures, either by reissuing the same debentures or by issuing other debentures in their place, and on such a reissue the person entitled to the debentures shall have, and shall be deemed always to have had, the same priorities as if the debentures had never been redeemed.

Power to
issue
redeemed
debentures.

(2) Where a company has power to reissue debentures which have been redeemed, particulars with respect to the debentures which can be so reissued shall be included in the balance-sheet of the company.

(3) Where a company has deposited any of its debentures to secure advances from time to time on current accounts or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remain so deposited.

(4) The reissue of a debenture or the issue of another debenture in its place under the power by this section given to or deemed to have been possessed by a company shall not be treated as the issue of a new debenture for the purposes of any provision limiting the amount or number of debentures to be issued. R.S. 1924, c. 38, s. 105.

Validity of
perpetual
debentures.

122. A condition contained in any debentures or in any deed for securing any debentures shall not be invalid by reason only that thereby the debentures are made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long, any rule of equity to the contrary notwithstanding. R.S. 1924, c. 38, s. 104.

DIVISION (5).—PROSPECTUSES AND OFFERS TO THE PUBLIC

Filing of
prospectuses.

126. (1) Every prospectus shall state on its face that a copy has been filed with the Registrar, and shall be dated, and such date shall, unless the contrary be proved, be taken as the date of issue of the prospectus.

(2) A copy of the prospectus as issued, signed at the end by every person who on the date of issue is a director or proposed director of the company, or by his agent authorized in writing, shall be filed with the Registrar within seven days from that date.

(3) The Registrar shall not file any prospectus unless this section is complied with.

(4) Every person and company which makes default in complying with the requirements of this section shall be guilty of an offence against this Act: Provided that any person or company liable for the default may apply to the court for relief, and the court, if satisfied that such default was accidental or due to inadvertence, or that on other grounds it is just and equitable to grant relief, may make an order authorizing the Registrar to file the prospectus in respect of which there has been default.

(5) This section shall apply whether the prospectus be issued by or on behalf of a company, or in relation to an intended company, or by or on behalf of any person who is or has been engaged or interested in the formation or promotion of a company, or, prior to the date of the statutory meeting, in the organization of a company. R.S. 1924, c. 38, s. 89.

Requirements
as to
prospectuses
under s. 126.

127. (1) Every prospectus to which section 126 applies shall state:—

- (a) The date of incorporation of the company; the address of its registered office; the extent of the liability of members, particulars of the capital authorized subscribed and paid up respectively, and of the kinds and classes of shares in the company, and their nominal or par value (if any), and the amount (if any) of the indebtedness of the company;
- (b) Particulars of the plan of operations of the business which the company proposes to carry on by means of the proceeds of the subscription invited by the prospectus, and the place where the operations or business will be carried on, and where the prospectus is issued more than one year after the date of incorporation of the company, general information as to the business which has been carried on by the company and as to its property and assets:

- (c) The number of shares or the amount of debentures offered by the prospectus, and the amount payable on the application for and the allotment of each share or debenture, and the amount or rate of any commission or discount to be allowed thereon:
- (d) The amount fixed as the minimum subscription under section 128 on which the directors may proceed to allotment, with an account showing how that amount is estimated or calculated:
- (e) The several amounts or estimated amounts paid or payable for preliminary expenses and for services rendered or to be rendered in relation to the formation or organization of the company, or as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares offered by the prospectus, or allowed or to be allowed as discount in respect of any debentures, or, in the case of a specially limited company, any shares, offered by the prospectus:
- (f) Particulars of any property purchased or acquired by the company, or proposed to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the subscription invited by the prospectus, or has been within the last two preceding years or is to be paid for by shares or debentures, or the purchase or acquisition of which has not been completed at the date of issue of the prospectus, and the title or interest therein acquired or to be acquired by the company:
- (g) The full name, address, and occupation of any vendor of property under clause (f) and in the case of a promoter the amount paid by him in cash, shares, or debentures for the property within the last two preceding years, and the amount (specifying separately the amount (if any) for good-will) paid or payable in cash, shares, or debentures to him for the property. Where there is more than one separate vendor, or the company is a sub-purchaser, particulars as to each vendor shall be stated: Provided that where the vendors or any of them are a firm the members of the firm shall not be treated as separate vendors:
- (h) Where debentures are offered for subscription, particulars of the security which has been or will be created for those debentures, specifying the property (if any) comprised or to be comprised in the security and the nature of the title to the property:
- (i) Particulars of any services rendered or to be rendered to the company which are to be paid by the company wholly or partly out of the proceeds of the subscription invited by the prospectus, or have been within the last two preceding years or are to be paid for by shares or debentures:
- (j) The amount, other than the amount mentioned in clause (g), paid within the last two preceding years or intended to be paid to any promoter, with his name and address, and the consideration for any such payment, and the amount in cash subscribed by him for shares or debentures of the company or otherwise contributed by him to the company:

- (k) Particulars showing:—
- (i) Any special rights or restrictions attached to any shares offered by the prospectus:
 - (ii) The right of voting at meetings of the company:
 - (iii) The number of shares (if any) fixed by the articles as the qualification of a director:
 - (iv) Any provision in the articles as to the remuneration of the directors or manager (if any), and the remuneration paid or payable to any director:
- (l) The full names, addresses, and occupations of the directors or proposed directors, and the amount in cash subscribed by each of them for shares and debentures of the company or otherwise contributed by each of them to the company:
- (m) Full particulars of the nature and extent of the interest (if any) of every director in the promotion of, or in the property proposed to be acquired by, the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company; but this clause shall not apply in the case of a prospectus issued more than two years after the date on which the company is entitled to commence business, except as to the particulars relating to property proposed to be acquired by the company:
- (n) The names and addresses of the auditors (if any) of the company;
- (o) In the case of a second or subsequent offer of shares or debentures, separate particulars of:—
- (i) The number or amount offered for subscription on each previous offer made within the last two preceding years, and the number or amount actually allotted, and the amount (if any) paid thereon;
 - (ii) The amount (if any) paid within the last two preceding years, or payable, as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in or debentures of the company, or allowed or to be allowed a discount in respect of any debentures, or, in the case of a specially limited company, of any shares, and the rate or amount of any such commission or discount;
- (p) Where the prospectus is issued more than one year after the date of the incorporation of the company, a copy of its last balance-sheet;
- (q) The dates of and parties to every material contract, and a reasonable time and place at which any material contract or a copy thereof may be inspected: Provided that this requirement shall not apply to a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company, or to any contract entered into more than two years before the date of issue of the prospectus.

(2) The information required by subsection (1) to be stated in a prospectus shall be contained in a separate part of the prospectus, commencing with the words "Statutory Information" in conspicuous type, and no other matter shall be included in that part of the prospectus: Provided that the information required by clauses (b) and (c) of subsection (1) may be stated in any part of the prospectus.

- (3) (a) In the case of a prospectus issued by a company before it has obtained a certificate entitling it to commence business, the prospectus shall include in the "Statutory Information," as the case may be, one of the following statements, namely, either:—

This company has not yet obtained a certificate entitling it to commence business, and is not authorized to allot any shares or debentures, unless the minimum subscription stated in the Statutory Information set forth in this prospectus is subscribed and a certificate entitling the company to commence business is subsequently issued to the company under the "Companies Act." All money received by the company in respect of the minimum subscription will, in accordance with the "Companies Act," be held in trust by the company to be repaid if the minimum subscription is not subscribed; or

The minimum subscription stated in the Statutory Information has been subscribed, but this company has not yet obtained a certificate entitling it to commence business, and is not yet authorized to allot any shares or debentures.

Provided that where the minimum subscription named in the prospectus proposed to be filed has been subscribed before the prospectus is filed, and the statutory declaration prescribed by section 42 is filed with the prospectus, and the Registrar issues to the company a certificate entitling the company to commence business on the day on which the prospectus and declaration are filed with him, the prospectus may include in the Statutory Information the following statement, namely:—

The minimum subscription stated in the Statutory Information has been subscribed and a certificate entitling the company to commence business was issued to the company by the Registrar of Companies on the day of ,19 . (The date of filing may be stated.)

- (b) Where a certificate entitling the company to commence business has been issued, the prospectus shall include in the Statutory Information a statement of the date of the certificate.

(4) For the purposes of this section, every person shall be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property to be acquired by the company, in any case where:—

- (a) The purchase-money is not fully paid at the date of issue of the prospectus; or
 (b) The purchase-money is to be paid or satisfied wholly or in part out of the proceeds of the subscription invited by the prospectus; or

(c) The contract depends for its validity or fulfilment on the result of that invitation.

(5) Where any of the property to be acquired by the company is to be taken on lease, this section shall apply as if the expression "vendor" included the lessor, and the expression "purchase-money" included the consideration for the lease, and the expression "sub-purchaser" included a sub-lessee.

(6) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document, or matter not specifically referred to in the prospectus shall be void.

(7) In the event of non-compliance with or contravention of any requirement of this section, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance, if he proves that:—

(a) As regards any matter not disclosed, he was not cognizant thereof; or

(b) The non-compliance or contravention arose from an honest mistake of fact on his part; or, if the non-compliance or contravention was in respect of matters which in the opinion of the Court dealing with the case were immaterial or was otherwise such as ought, in the opinion of that Court, having regard to all the circumstances of the case reasonably to be excused:

Provided that, in the event of non-compliance with the requirements contained in paragraph (m) of subsection 1, no director or other person shall incur any liability in respect of the non-compliance unless it be proved that he had knowledge of the matters not disclosed.

(8) Subject to subsection (7), every company and person who fails to comply with or contravenes any requirements of this section shall be guilty of an offence against this Act.

(9) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Act apart from this section.

(10) The company shall furnish to every person who is invited to subscribe for any shares or debentures offered by the prospectus with a copy of the prospectus at the time when the invitation is made.

(11) Where the prospectus contains particulars of any contract under which shares or debentures are to be allotted by the company as the consideration for property or for services or other consideration than cash, the contract or, where the contract is not reduced to writing, full and exact particulars of the contract shall be filed with the prospectus.

(12) (a) This section shall not apply to the issue to existing members or debenture-holders of a company of a prospectus relating to shares in or debentures of the company, whether an applicant for such shares or debentures will or will not have the right to renounce in favour of other persons.

(b) In the case of an offer of debentures only, clauses (j) and (k) and, except with respect to payments to be made out of the proceeds of such offer, clauses (f), (g), and (i) of subsection (1) shall not apply. R.S. 1924, c. 38, s. 90.

128. (1) The minimum subscription required to be named in a prospectus under section 127:—

Minimum
subscription.

- (a) Shall be the minimum amount which in the opinion of the directors must be raised in order that the company may, with a reasonable prospect of success, carry out the plan of operations or conduct the business described in the prospectus; and
- (b) Shall be reckoned exclusively of any amount payable to the company otherwise than in cash; and
- (c) Shall only be expended for the operations or business set forth in the statement or prospectus, unless the company by ordinary resolution sanctions its expenditure for some other purpose.

(2) Unless the minimum subscription is subscribed before the issue of the prospectus, all money paid to and received by the company in respect of the minimum subscription shall be deposited as trust funds to its credit as trustee in a separate account in a branch or agency in the province of a bank, and the company shall hold and shall declare in its prospectus that it will hold all such moneys in trust to be repaid, if the minimum subscription is not subscribed, in accordance with this section. If any such money is not so deposited and held, the directors of the company shall be jointly and severally liable to repay the money with interest at the rate of six per cent per annum from the date when it was paid to the company by the subscriber: Provided that a director shall not be liable if he proves that the failure so to deposit and hold the money was not due to any misconduct or negligence on his part.

(3) Where the minimum subscription has not been subscribed at the expiration of ninety days after the issue of the prospectus, or any extension of time, not exceeding fifty days, which the Registrar may grant, or, in the case of a company which is required to obtain a certificate entitling it to commence business, where the minimum subscription has been subscribed but section 42 is not complied with, all money paid to and received by the company in respect of the minimum subscription shall be forthwith repaid to the subscribers without any deduction, but without interest; and if such money is not so repaid within ninety-eight days after the issue of the prospectus the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of six per centum per annum from the expiration of the ninety-eighth day: Provided that a director shall not be liable if he proves that the failure so to repay the money was not due to any misconduct or negligence on his part.

(4) No allotment of any shares or debentures offered by a prospectus issued by a company entitled to commence business or to carry on business as a public company shall be made, unless the minimum subscription so named in the prospectus has been subscribed and the minimum amount prescribed by section 113 has been paid to and received by the company in respect thereof.

(5) Every director who fails to comply with or contravenes any requirement of this section shall, without prejudice to any other liability, be guilty of an offence against this Act. R.S. 1924, c. 38, s. 31.

Offers to
the public
by under-
writers and
others.

129. (1) Where a company allots or agrees to allot any shares in or debentures of the company with a view to all or any of those shares or debentures being offered for sale to the public, and the whole consideration for such shares or debentures is not paid to the company at the date of the allotment or the offer for sale, whichever date is the earlier, any person who by a prospectus issued by him with respect to all or any of those shares or debentures makes an offer thereof to the public shall file with the Registrar a copy of the prospectus, signed and dated by him, and such date shall, unless the contrary be proved, be taken as the date of issue of the prospectus.

(2) Every such prospectus shall state on its face that a copy has been filed with the Registrar, and shall be so filed within seven days from the date of its issue.

(3) For the purposes of this section, it shall, unless the contrary is proved, be evidence that an allotment of, or an agreement to allot, shares or debentures was made with a view to the shares or debentures being offered for sale to the public if it is shown:—

(a) That an offer of the shares or debentures, or of any of them, for sale to the public was made within six months after the allotment or agreement to allot; or

(b) That at the date when the offer was made the whole consideration to be received by the company in respect of the shares or debentures had not been so received.

(4) Where a person making an offer to which this section relates is a company or a firm, it shall be sufficient if the prospectus is signed on behalf of the company or firm by an officer of the company or a partner of the firm, authorized in either case to sign the prospectus.

(5) A copy of the prospectus shall be furnished to the member of the public to whom the offer of any shares or debentures to which the prospectus relates is made at the time when the offer is made, and no subscription or application for any share so offered shall be taken unless the copy has been so furnished.

(6) Without prejudice to the liability (if any) of the person by whom the prospectus is issued in respect of misstatements contained in the prospectus or otherwise in respect thereof, any person accepting the offer made by the prospectus in respect of any shares or debentures shall as against the company have the same rights of rescission as if those shares or debentures had been offered to the public for subscription by the company, and as if such person were a subscriber for those shares or debentures; and section 132 shall, so far as it applies to a person who has authorized the issue of a prospectus, extend to a prospectus within the meaning of this section.

(7) Where a person (hereinafter called the "principal underwriter") to whom the company makes an allotment or agrees to make an allotment of shares or debentures within the meaning of subsection (1) sells or agrees to sell to any other person (hereinafter called a "sub-underwriter") all or any of those shares or debentures, and the sub-underwriter offers all or any of those shares or debentures to the public by a prospectus prepared or issued by the principal underwriter, the principal underwriter shall be primarily liable in respect of misstatements contained in the prospectus to any person accepting the offer made by the prospectus.

(8) Sections 126, 127, and 131 shall not apply to a prospectus under this section, and the expression "prospectus" in this section shall not include a notice, circular, advertisement, or other document which contains no statement, either of fact or opinion, relating to any property acquired or proposed to be acquired by, or to any business carried on or proposed to be carried on by, the company whose shares or debentures are offered for sale to the public within the meaning of this section.

(9) Every person who fails to comply with or contravenes any requirement of this section shall be guilty of an offence against this Act. (New).

130. (1) It shall not be lawful for any person to go from house to house offering shares in or debentures of a company for subscription or purchase to the public or any members of the public, unless a prospectus has been issued with respect to the shares or debentures so offered and filed in accordance with sections 126 and 127. House-to-house offers.

(2) A copy of the prospectus shall be delivered to the member of the public to whom any such offer is made at the time when the offer is made at any house, and no subscription or application for any share so offered shall be taken unless the copy has been so delivered.

(3) Every company or person who fails to comply with or contravenes any requirement of this section shall be guilty of an offence against this Act.

(4) In this section the expression "house" shall not include an office used for business purposes. R.S. 1924, c. 38, s. 90.

131. (1) It shall not be lawful for a company, or for any person on its behalf, to publish or circulate any matter not amounting to a prospectus, but which expressly or by implication invites the public to subscribe for or purchase any shares in or debentures of the company, unless a prospectus has been issued with respect to such shares or debentures and filed in accordance with sections 126 and 127, and unless the matter published or circulated states that a prospectus has been so issued and filed and that copy of the prospectus will be furnished to every person who subscribes or applies for any such shares or debentures. Restrictions on publication and circulation of matter relating to shares or debentures.

(2) Every company or person who fails to comply with or contravenes any requirement of this section shall be guilty of an offence against this Act. R.S. 1924, c. 38, s. 90.

132. (1) Where a prospectus invites persons to subscribe for shares in or debentures of a company, every person who is a director of the company at the time of the issue of the prospectus, and every person who is with his consent named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time, and every promoter of the company, and every person who has authorized the issue of the prospectus, shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for the loss or damage they may have sustained by reason of any untrue statement therein, or in any report or memorandum appearing on the face Liability for statements in prospectus.

thereof, or by reference incorporated therein or issued therewith, unless it is proved:—

- (a) With respect to every untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, that he had reasonable ground to believe, and did up to the time of the allotment of the shares or debentures, as the case may be, believe, that the statement was true; and
 - (b) With respect to every untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation: Provided that the director, person named as director, promoter, or person who authorized the issue of the prospectus, shall be liable to pay compensation as aforesaid if it is proved that he had no reasonable ground to believe that the person making the statement, report, or valuation was competent to make it; and
 - (c) With respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document;
- or unless it is proved:—
- (d) That having consented to become a director of the company he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or
 - (e) That the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was issued without his knowledge or consent; or
 - (f) That after the issue of the prospectus and before allotment thereunder, he, on becoming aware of any untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of the withdrawal, and of the reason therefor.

(2) Every person to whom clause (d), (e), or (f) of subsection (1) applies shall file with the Registrar a copy of any notice of withdrawal or public notice given by him, within seven days from the date of his notice.

(3) Where the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorized or consented to the issue thereof, the directors of the company, except any without whose knowledge or consent the prospectus was issued, and any other person who authorized the issue thereof, shall be liable to indemnify the person named as aforesaid against all damages, costs, and expenses to which he may be made liable by reason of his name having been inserted in the prospectus, or in defending himself against any action or legal proceedings brought against him in respect thereof.

(4) Every person who by reason of his being a director, or of his being named as a director or of his having agreed to become a director, or of his having authorized the issue of the prospectus, becomes liable to make any payment under this section may recover contribution, as in cases of contract, from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable was, and that other person was not, guilty of fraudulent misrepresentation.

(5) For the purposes of this section:—

The expression “promoter” means a promoter who was a party to the preparation of the prospectus, or of the portion thereof containing the untrue statement, but does not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company:

The expression “expert” includes engineer, valuer, accountant, and any other person whose profession gives authority to a statement made by him. R.S. 1924, c. 38, s. 92.

SASKATCHEWAN

EXTRACT FROM STATUTES OF SASKATCHEWAN, 1928-29

1928-29

CHAPTER 68

An Act for the Prevention of Fraud in connection with the Sale of Securities

(Assented to February 2, 1929)

His Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:—

Short title.

1. This Act may be cited as The Security Frauds Prevention Act, 1929.

Interpretation.

2. In this Act, unless the context otherwise requires, the expression:

"Broker."

(1) "Broker" means every person other than a salesman who engages either for the whole or part of his time directly or through an agent in the business of trading in securities and includes such officials of a company or partnership which trades in securities as may be designated by the regulations;

"Company."

(2) "Company" includes any association, corporation, company or other incorporated organization, whether acting as a trustee or not;

"Fraud."

(3) "Fraud," "fraudulent" or "fraudulent act," in addition to its ordinary meaning, includes:

(a) any intentional misrepresentation by word, conduct or in any manner of any material fact either present or past, and any intentional omission to disclose any such fact;

(b) any promise or representation as to the future which is beyond reasonable expectation and not made in good faith;

(c) any fictitious or pretended trade in any security;

(d) the gaining of, or attempt to gain, directly or indirectly, through a trade in any security, a commission, fee or gross profit so large and exorbitant as to be unconscionable and unreasonable;

(e) generally any course of conduct or business which is calculated or put forward with intent to deceive the public or the purchaser of any security as to the nature of any transaction or as to the value of such security;

(f) the making of any material false statement in any application, information, material or evidence submitted or given to the Attorney General, his representative or the registrar under the provisions of this Act or the regulations; or in any prospectus or return filed with the Provincial Secretary;

(g) the violation of any provision of this Act or of the regulations relating to the manner in which brokers or salesmen shall trade in securities and anything specifically designated in the regulations as coming within the meaning of this definition;

(h) any artifice, agreement, device or scheme to obtain money, profit or property by any of the means hereinbefore set forth or otherwise contrary to law;

(4) "Person" means an individual, partnership, association, "Person," syndicate and any unincorporated organization whether acting as a trustee or not;

(5) "Registrar" means the person appointed by the Lieutenant "Registrar." Governor in Council to act as registrar under the provisions of this Act and the regulations;

(6) "Regulations" means the regulations made from time to "Regulations." time by the Lieutenant Governor in Council under the provisions of this Act;

(7) "Salesman" means every person employed, appointed or "Salesman." authorized by any broker or company to trade in securities whether directly or through sub-agents;

(8) "Securities" includes subject to the provisions of subsection "Security." (3) of section 3, any document or instrument commonly known as a security, every documentary evidence of indebtedness or evidence representing or secured by some title to or interest in the capital, assets, property, profits, earnings or royalties of any person or company, evidence of membership in an association of heirs or evidence of any option upon a security and anything designated as a security by the regulations;

(9) "Trade" or "Trading" includes subject to the provisions of "Trade." subsection (3) of section 3, any disposition of, transaction in, or attempt to deal in, sell or dispose of a security or interest in or option upon a security for any valuable consideration, whether the terms of payment be upon margin, instalment or otherwise, and any underwriting of any issue or part of an issue of a security, the obtaining of a subscription to the capital stock of any organization, whether incorporated or not, and any act, advertisement, conduct or negotiation directly or indirectly in furtherance of any of the foregoing or specifically designated as "trade" or "trading" in the regulations;

(10) "Trustee" means a person, or a company, as the case may "Trustee." be, executing a trust expressly created by or declared in an instrument in writing other than a will or court order or judgment, where such trust is to carry on any business or to secure the payment or repayment of money.

PART I

REGISTRATION OF BROKERS AND SALESMEN

3. (1) No person shall:

- (a) trade in any security unless he is registered as a broker or salesman; Brokers, officials and salesmen to register.
- (b) Act as an official of or on behalf of any partnership or company in connection with any trade in any security by the partnership or company, unless he or the partnership or company is registered as a broker;
- (c) act as a salesman of or on behalf of any partnership or company in connection with any trade in any security by the partnership or company, unless he is registered as a salesman;

and unless such registrations have been made in accordance with the provisions of this Act and the regulations; and any violation of this section shall constitute an offence.

Partnership
or company
may be
registered.

(2) With the approval of the Attorney General, any partnership or company may be registered as a broker, whereupon the partnership or company may trade in securities, and the members and officials of the partnership, and the officials of the company other than branch managers or salesmen of the partnership or company, may act as such without separate registration, and the provisions of this Act, and of the regulations relating to registered persons or companies, shall be deemed to apply to such partnership or company.

Exemptions.

(3) Subsections (1) and (2) shall not apply to any person in respect of any of the following classes of trades or securities:

Judicial
sales.

(a) a trade in a security taking place at a judicial, executor's, administrator's, guardian's or committee's sale, or at a sale by an authorized trustee or assignee, an interim or official receiver or a custodian under THE BANKRUPTCY ACT, a receiver under THE KING'S BENCH ACT, or a liquidator under THE WINDING UP ACT of Canada or THE COMPANIES WINDING UP ACT OF SASKATCHEWAN;

Isolated
transactions
by owner.

(b) an isolated trade in a specific security by or on behalf of the owner, for the owner's account, where such trade is not made in the course of continued and successive transactions of a like character;

Banks, etc.,
Crown,
municipal
and public
officials, etc.

(c) a trade where one of the parties is an official of a bank, loan company, trust company or insurance company, or is an official or employee, in the performance of his duties as such, of His Majesty in right of the Dominion or any province or territory of Canada or of any municipal corporation, or public board or commission in Canada or is registered as a broker under the provisions of this Act;

Sale by
pledgee for
debt.

(d) a trade by or for the account of a pledgee or mortgagee for the purpose of liquidating a *bona fide* debt by selling or offering for sale or delivery in good faith in the ordinary course of business a security pledged in good faith as security for such debt;

Stock
dividends,
etc.

(e) the distribution, issuance or sale by a company exclusively to the holders of its securities of capital stock, bonds or other securities as a stock dividend or other distribution out of earnings or surplus, or in the process of a *bona fide* reorganization of the company, or of additional capital stock where no commission or other remuneration is paid or given in connection therewith;

Exchange
on merger.

(f) the exchange by or on account of one company with another company of its own securities in connection with a consolidation, amalgamation or merger of either company;

Prospector's
"grubstake"
or share in
claim.

(g) a trade in good faith by an actual prospector of a security issued by him for the purpose of financing a prospecting expedition or for the purpose of disposing of any of his interest in a mining claim or property staked by or wholly or partly owned by him;

- (h) securities in which trust funds may lawfully be invested in Saskatchewan; Trust.
- (i) bonds or notes secured by mortgage upon real estate or tangible personal property where the entire mortgage, together with all of the bonds or notes secured thereby are sold at the one time; Secured bonds.
- (j) negotiable promissory notes or commercial paper maturing not more than a year from the date of issue; Negotiable paper.
- (k) securities evidencing indebtedness due under any contract made pursuant to the provisions of any statute of any province of Canada providing for the acquisition of personal property under conditional sales contracts; Securities based upon conditional sales.
- (l) securities issued by a person or company organized exclusively for the promotion of art, science, charity, religion or other useful object, or for educational, benevolent, fraternal, charitable, or recreational purposes and not for pecuniary profit, where no part of the net earnings thereof enure to the benefit of any security holder; Shares of non-profit-sharing companies.
- (m) any class of trade or security specifically exempted from the application of subsections (1) and (2) of this section by the regulations. Trades or securities exempted by regulations.

4. (1) Unless the Attorney General otherwise directs the registrar may within ten days after the receipt by him of any application for registration cause to be entered in a book kept for such purpose and open to public inspection, hereinafter called the "Register," the name and address for service of such applicant, whereupon such applicant shall be deemed to be registered as a broker or salesman as the case may be. Registration within ten days unless Attorney General objects.

(2) The registrar may upon the direction of the Attorney General or his representative authorized in writing cause a temporary entry to be made, designated as such, in the register, subject to cancellation at any time upon the order of the Attorney General. Temporary registration.

(3) Registrations shall expire, and may be changed or renewed as the regulations shall provide. Expiration, change and renewal of registration.

5. (1) Every application under this Act or the regulations shall be made in writing upon the forms provided by the registrar, and shall be accompanied by the fee prescribed by the regulations and such bond as may be required. Application to be upon forms with proper fees and bonds.

(2) Every applicant, whether domiciled in Saskatchewan or not, shall state in every application an address for service in Saskatchewan, and all notices under this Act or the regulations and all legal process issued by or on behalf of any person or company shall be sufficiently served for all purposes if posted by registered mail to the applicant at the latest address for service so stated, and in the case of a non-registered company where the officials are registered to the latest address of the person registered as the senior official of such company in Saskatchewan. Address for service.

(3) The registrar may from time to time and shall when so directed by the Attorney General require any further information or material to be submitted by any applicant or any registered person or company within a specified time and may require verification by affidavit or otherwise of any matter then or previously submitted. Further information.

Bond by
broker and
applicant.

6. (1) Every applicant for registration as a broker shall before registration submit a bond by the applicant or the person or company he represents as the registrar may require, such bond to be in the sum of \$500 and in such form and upon such condition as the regulations shall prescribe.

Bond by a
surety
company if
required.

(2) The registrar may and when so directed by the Attorney General shall require any applicant or any registered person or company within a specified time to deliver a bond by a surety company approved by the Attorney General or any other bond in such form and upon such conditions as the regulations shall prescribe, and in such amount as the regulations or the Attorney General shall require.

New bond.

(3) The registrar may and when so directed by the Attorney General shall require a new bond of the kind mentioned in subsections (1) or (2) to be filed within a specified time.

Forfeiture
of bond.

7. (1) Any bond mentioned in section 6 shall be forfeit and the sum named therein shall become due and owing by the person or company bound thereby as a debt to His Majesty in right of Saskatchewan when there has been filed with the Registrar the Attorney General's certificate that the person or company in respect of whose conduct the bond is conditioned, or any official, employee or salesman of such company has, in connection with a trade in a security, been:

(a) in the case of the bond mentioned in subsection (1) of section 6:

- (i) charged with any criminal offence; or,
- (ii) found upon investigation by the Attorney General or his representative to have committed a fraudulent act; or

(b) in the case of the bond mentioned in subsection (2) of section 6:

- (i) convicted of a criminal offence; or
- (ii) convicted of an offence against any provision of this Act or the regulations; or
- (iii) enjoined by the Court of King's Bench or a judge thereof otherwise than by an interim injunction.

Assignment
of bond or
payment of
monies to
creditors.

(2) The Attorney General may assign any bond forfeited under the provisions of subsection (1) or may pay over any moneys required thereunder to any person, or into the Court of King's Bench in trust for such persons and companies as may become judgment creditors of the person or company bonded, or to any trustee, custodian, interim receiver, receiver or liquidator of such person or company as the case may be, such assignment or payment over to be in accordance with and upon conditions set forth in the regulations or in any special order of the Lieutenant-Governor in Council.

Attorney
General's
orders
concerning
applications.

8. (1) The Attorney General may order that:

- (a) any application for registration, renewal or change of registration shall or shall not be granted for any reason which he may deem sufficient;
- (b) the application of any person for registration shall not be granted where it appears that such person proposes to use or is using a trading name other than his own, or that of his partner, where such trading name is apt to lead the public to believe it is that of a business firm of longer established standing in Saskatchewan, or is calculated to conceal from the public the identity of the applicant, or is for any reason objectionable;

- (c) any temporary entry in the register shall be made, suspended or cancelled for any reason which he may deem sufficient;
- (d) the registration of any person or company shall be suspended for any period or cancelled by reason of default in filing a bond when required under the provisions of subsections (2) and (3) of section 6;
- (e) the registration of any person or company shall be suspended as provided in section 10;

and no order of the Attorney General shall be subject to review in any way in any court.

(2) The registrar upon receiving any order of the Attorney General suspending or cancelling any registration shall cause immediate entry thereof to be made in the register whereupon the suspension or cancellation shall become effective forthwith, but notice thereof and of the refusal of any application shall be sent to the person or company concerned.

Entry or suspension or cancellation.

(3) Notwithstanding any order of the Attorney General a further application may be made upon new or other material, or where it is clear that material circumstances have changed.

Further applications.

PART II

INVESTIGATION AND ACTION BY ATTORNEY GENERAL

9. (1) The Attorney General, or any person to whom as his representative he may in writing delegate such authority, may examine any person or thing whatsoever at any time in order to ascertain whether any fraudulent act, or any offence against this Act or the regulations has been, is being, or is about to be committed, and for such purpose shall have the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath and to produce documents, records and things as is vested in the Court of King's Bench or a judge thereof for the trial of civil cases, save that no person shall be entitled to claim any privilege in respect of any evidence or document, record or thing, sought to be given or produced, on the ground that he might be incriminated or exposed to a penalty thereby.

Investigation by Attorney General.

(2) The failure without reasonable excuse of any person or company to furnish information required by the registrar under Part I within the time limited, or the failure without reasonable excuse of any person summoned for examination under subsection (1) to appear or his refusal to give evidence, or to answer any question, or the failure without reasonable excuse or refusal of any person or company to produce anything where the evidence, answer or production would be required in an action shall constitute an offence and shall also be *prima facie* evidence upon which:

Failure to give information, etc., an offence and also *prima facie* evidence.

- (a) the Attorney General, or his representative, may base an affirmative finding concerning any fraudulent act to which he may deem it relevant; or
- (b) the Court of King's Bench, or a judge thereof, may grant an interim or permanent injunction; or
- (c) a police magistrate may base a conviction for an offence against this Act or the regulations.

(3) Disclosure by any person other than the Attorney General, his representative or the registrar, without the consent of any one of them, of any information or evidence obtained or the name of any witness examined or sought to be examined under subsection (1) shall constitute an offence.

Evidence not to be disclosed.

Attorney
General
may

10. If the Attorney General or his representative upon investigation finds that any fraudulent act, or that any offence against this Act or the regulations, has been, is being, or is about to be committed, the Attorney General:

Suspend for
over
ten days.

(a) may where a registered broker, company or salesman is in his opinion concerned therein, order that the broker, company or salesman and any other registered broker, company or salesman connected with the same organization, be suspended from registration for any period not exceeding ten days; or

Proceed
by injunction.

(b) may where he considers a suspension for ten days inadequate, or where any unregistered person or company is in his opinion concerned in such fraudulent act or in such offence, proceed under the provisions of section 11, or otherwise under this Act or the regulations; or

Give notice
of fraud.

(c) may give notice of the fraudulent act to the public by advertisement or otherwise or to any individual by letter or otherwise, whenever he deems it advisable.

Power of
court to
enjoin from
trading in
securities.

11. (1) The Court of King's Bench or any judge thereof, upon the application of the Attorney General, where it is made to appear upon the material filed or evidence adduced that any fraudulent act, or any offence against this Act or the regulations has been, is being, or is about to be committed, may by order enjoin:

(a) any registered broker, company or salesman or any person or company implicated with any of them in the same matter from trading in any security whatever absolutely or for such period of time as shall seem just, and any such injunction shall *ipso facto* suspend the registration of any registered person or company named in the order during the same period; or

(b) any person or company from trading in any security whatever, or in any specific security, or from committing any specific fraudulent act or series of fraudulent acts absolutely or for such period of time as shall seem just.

Mode of
application.

(2) The application of the Attorney General under subsection (1) may be made without any action being instituted either:

(a) by an *ex parte* motion for an interim injunction which shall, if granted, remain in full force for ten days from the date thereof unless the time is extended or the originating motion mentioned in clause (b) is sooner heard and determined; or

(b) by an originating notice of motion, which, if an interim injunction has been granted, shall be served within five and returnable within ten days from the date of such interim injunction.

Evidence.

(3) Any information, evidence, exhibit or thing obtained by the Attorney General or his representative or the registrar under the provisions of this Act or the regulations, or copies thereof, certified by the Attorney General or the registrar shall, so far as relevant, be receivable in evidence for all purposes in any action, proceeding or prosecution and, in proceedings under this section only, the evidence of a witness may be used against him notwithstanding anything in the Saskatchewan Evidence Act contained.

12. (1) The Attorney General may:

Attorney
General
may order
funds, etc.,
to be held.

- (a) when he is about to examine or during or after the examination of any person or company under the provisions of section 9; or
- (b) when he is about to apply for or has applied for or has obtained an injunction interim or otherwise against any person or company under the provisions of section 11; or
- (c) where criminal proceedings which in his opinion are connected with or arise out of any security or any trade therein, or out of any business conducted by the accused are about to be or have been instituted against any person,

in writing or by telegram direct any person or company having in Saskatchewan on deposit or under control or for safe keeping any funds or securities of the person or company so to be or actually examined, enjoined or charged, to hold such funds or securities in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the provisions of The Bankruptcy Act, The King's Bench Act, The Winding Up Act of Canada or The Companies Winding Up Act of Saskatchewan or until the Attorney General in writing revokes such direction or consents to release any particular fund or security from such direction, and failure without reasonable excuse by any person or company to comply with any such direction shall constitute an offence, provided that, unless such direction expressly so states, it shall not apply to funds or securities in a stock exchange clearing house nor to securities in process of transfer by a transfer agent and in the case of a bank, loan or trust company the direction shall only apply to the offices, branches or agencies thereof named in the direction.

(2) In any of the circumstances mentioned in clauses (a) and (b) of subsection (1), the Attorney General may make and file, in the land titles office of any land registration district in which is situated land belonging to any person or company referred to in the said clauses, a certificate that he is about to take or has taken proceedings under the provisions of section 9 or section 11, as the case may be, and such certificate shall, when registered, have the same effect as the registration of a certificate of *lis pendens*.

(3) Any person or company in receipt of a direction given under subsection (1) if in doubt as to the application of such direction to any funds or security, or in case of a claim being made thereto by any person or company not named in such direction, may apply to the Court of King's Bench or a judge thereof who may direct the disposition of such fund or security and may make such order as to costs as may seem just.

Application
for
direction.

(4) The Attorney General, whenever His Majesty becomes a creditor of any person or company in respect of a debt to the Crown arising from the provisions of sections 6 and 7, may take such proceedings as he shall see fit under The Bankruptcy Act, The King's Bench Act, The Winding Up Act of Canada or The Companies Winding Up Act of Saskatchewan for the appointment of an interim receiver, custodian, trustee, receiver or liquidator as the case may be.

Attorney
General
may take
bankruptcy
proceedings,
etc.

PART III.

GENERAL PROVISIONS

Judge not
persona
designata.

13. (1) A judge of the Court of King's Bench in exercising any of the powers conferred upon such judge by this Act shall be deemed so to act as a judge of such court and not as *persona designata*.

(2) The Attorney General shall in all proceedings under this Act or the regulations be deemed to be acting as the representative of His Majesty in the right of Saskatchewan, and not as *persona designata*.

KING'S
BENCH
ACT and
rules apply.

(3) The provisions of the King's Bench Act and the rules of court made thereunder so far as they are applicable to proceedings of a like nature, including those relating to appeals and to the enforcement of judgments and orders, shall apply to every proceeding before the Court of King's Bench or a judge thereof under the provisions of this Act, save that service of notices and other legal process shall be in accordance with subsection (2) of section 5 and save that costs may be awarded to but not against the Attorney General.

No action,
etc., against
persons
administer-
ing Act.

14. No action whatever, and no proceedings by way of injunction, mandamus, prohibition or other extraordinary remedy shall lie or be instituted against any person whether in his public or private capacity or against any company in respect of any act or omission in connection with the administration or carrying out of the provisions of this Act or the regulations where such person is the Attorney General or his representative, or the registrar or where such person or company was proceeding under the written or verbal direction or consent of any one of them, or under an order of the Court of King's Bench or a judge thereof made under the provisions of this Act.

Regulations.

15. The Lieutenant Governor in Council may make regulations not inconsistent with this Act for the better carrying out of the provisions of this Act, for the more efficient administration thereof and for the prevention of fraud in trading in securities whether upon any stock exchange or elsewhere in Saskatchewan, for the creation of offences, and for any other purpose elsewhere indicated in this Act, and all such regulations and any amendment, alteration or repeal thereof shall become effective in all respects as if enacted in this Act upon the publication thereof in the *Saskatchewan Gazette*.

Penalties.

16. (1) Every person who violates any provision of this Act or the regulations designated as an offence, or who does any fraudulent act not punishable under the provisions of the Criminal Code, shall be liable upon summary conviction to a penalty of not more than \$1,000 for a first offence, and not more than \$2,000 for a second or subsequent offence, and in case of either a first or a subsequent offence either in default of payment of any penalty imposed, or in addition to such penalty, to imprisonment for a term not exceeding six months.

Companies.

(2) The provisions of subsection (1) shall be deemed to apply *mutatis mutandis*, to any company save that the money penalties may be increased in the discretion of the magistrate to a sum not exceeding \$25,000.

(3) No proceedings under this section shall be instituted except with the consent or under the direction of the Attorney General.

Consent of
the Attorney
General
required.

(4) Subject to the provisions of subsection (3), any police officer or police constable may, without warrant, arrest any person whom he believes to have committed an offence against this Act, and enter any place, if need be by force, and seize such documents or other things whatsoever as he finds therein.

Arrest and
seizure
without
warrant.

17. The Sales of Shares Act is hereby repealed.

Rev. Stat. c.
199.

18. This Act shall come into force on a day to be determined by proclamation of the Lieutenant Governor.

Coming
into force.

EXTRACT FROM STATUTES OF SASKATCHEWAN, 1928-29, CHAPTER 28, ENTITLED "AN ACT RESPECTING COMPANIES "

PROSPECTUS

108. (1) Every prospectus issued by or on behalf of a company or in relation to any intended company shall be dated, and that date shall, unless the contrary be proved, be taken as the date of publication of the prospectus.

Publication
and filing
of Prospectus.

(2) A copy of every such prospectus, signed by every person who is named therein as a director or proposed director of the company, or by his agent authorized in writing, shall be filed with the registrar on or before the date of its publication and no such prospectus shall be issued until a copy thereof has been so filed for registration.

(3) The registrar shall not register any prospectus unless it is dated and the copy thereof signed in manner required by this section.

(4) Every prospectus shall state on the face of it that a copy has been filed for registration as required by this section.

(5) If a prospectus is issued without a copy thereof being so filed, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a fine not exceeding \$25 for every day from the date of the issue of the prospectus until a copy is so filed. R.S.S. 1920, c. 76, s. 84.

109. (1) Every prospectus shall state:

Contents of
prospectus.

- (a) the contents of the memorandum, with the names, descriptions and addresses of the signatories, and the number of shares subscribed for by them respectively; the number of founders' or management shares, if any, and the nature and extent of the interest of the holders in the property and profits of the company;
- (b) the number of shares, if any, fixed by the articles as the qualifications of a director, and any provision in the articles as to the remuneration of the directors;
- (c) the names, descriptions and addresses of the directors or proposed directors;
- (d) the minimum subscription on which the directors may proceed to allotment, and the amount payable on application and allotment of each share; and in the case of a second or subsequent offer of shares, the amount offered for subscrip-

tion on each previous allotment made within the two preceding years, and the amount actually allotted, and the amount, if any, paid on the shares so allotted;

- (e) the number and amount of shares and debentures which within the two preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or are proposed or intended to be issued;
- (f) the names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of issue of the prospectus, and the amount payable in cash, shares or debentures, to the vendor, and where there is more than one separate vendor, or the company is a subpurchaser, the amount so payable to each vendor:

Provided that, where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors;

- (g) the amount, if any, paid or payable as purchase money in cash, shares, or debentures, for any such property as aforesaid, specifying the amount, if any, payable for good will;
- (h) the amount, if any, paid within the two preceding years, or payable, as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in, or debentures of, the company, and the rate of any such commission:

Provided that it shall not be necessary to state the commission paid to subunderwriters;

- (i) the amount or estimated amount of preliminary expenses;
- (j) the amount paid within the two preceding years or intended to be paid to any promoter, and the consideration of any such payment;
- (k) the dates of and parties to every material contract, and a reasonable time and place at which any material contract or a copy thereof may be inspected:

Provided that this requirement shall not apply to a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company, or any contract entered into more than two years before the issue of the prospectus;

- (l) the names and addresses of the auditors, if any, of the company;
- (m) full particulars of the nature and extent of the interest, if any, of every director in the promotion of, or in the property proposed to be acquired by, the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as a

director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company;

- (n) where the company is a company having shares of more than one class, the right of voting at meetings of the company conferred by the several classes of shares respectively;
- (o) the amount intended to be reserved for working capital; and
- (p) the number of shares, if any, fixed by the articles of the company as the qualification of a director.

(2) For the purposes of this section every person shall be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase or for any option of purchase, of any property to be acquired by the company in any case where:

- (a) the purchase money is not fully paid at the date of the issue of the prospectus; or
- (b) the purchase money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus; or
- (c) the contract depends for its validity or fulfilment on the result of that issue.

(3) Where any property to be acquired by the company is to be taken on lease, this section shall apply as if the expression "vendor" included the lessor, and the expression "purchase money" included the consideration for the lease, and the expression "subpurchaser" included a sublessee.

(4) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section, or purporting to effect him with notice of any contract, document or matter not specially referred to in the prospectus, shall be void.

(5) Where any such prospectus as is mentioned in this section is published as a newspaper advertisement, it shall not be necessary in the advertisement to specify the contents of the memorandum or the signatories thereto, and the number of shares subscribed for by them.

(6) In the event of non-compliance with any of the requirements of this section, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance, if he proves that:

- (a) as regards any matter not disclosed, he was not cognizant thereof; or
- (b) the non-compliance arose from a honest mistake on his part:

Provided that in the event of non-compliance with the requirements contained in clause (m) of subsection (1) no director or other person shall incur any liability in respect of the non-compliance unless it is proved that he had knowledge of the matters not disclosed.

(7) This section shall not apply to a circular or notice inviting existing members or debenture holders of a company to subscribe either for shares or for debentures of the company either with or without the right to renounce in favour of other persons, but subject as aforesaid, this section shall apply to any prospectus whether issued on or with reference to the formation of a company or subsequently.

(8) The requirements of this section as to the memorandum and the qualification, remuneration and interest of directors, the names, descriptions and addresses of directors or proposed directors, and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date at which the company is entitled to commence business.

(9) Nothing in this section shall limit or diminish any liability which any person may incur under this Act apart from this section. R.S.S. 1920, c. 76, s. 85.

Restriction
on alteration
of contracts
mentioned in
prospectus.

110. A company shall not, previously to the statutory meeting, vary the terms of a contract referred to in the prospectus, except subject to the approval of the statutory meeting. R.S.S. 1920, c. 76, s. 86.

Liability for
statements in
prospectus.

111. (1) Where a prospectus invites persons to subscribe for shares in, or debentures of, a company, every person who is a director of the company at the time of the issue of the prospectus, and every person who has authorized the naming of him and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time, and every promoter of the company, and every person who has authorized the issue of the prospectus, shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for the loss or damage they may have sustained by reason of any untrue statement therein, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved:

- (a) with respect to every untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, that he had reasonable ground to believe, and did up to the time of the allotment of the shares or debentures, as the case may be, believe that the statement was true; and
- (b) with respect to every untrue statement purporting to be a statement by, or contained in what purports to be, a copy of or extract from a report or valuation of an expert, that it fairly represented the statement or was a correct and fair copy of or extract from the reports or valuation:
Provided that the director, person named as director, promoter, or person who authorized the issue of the prospectus, shall be liable to pay compensation as aforesaid if it is proved that he had no reasonable ground to believe that the person making the statement, report, or valuation was competent to make it; and
- (c) with respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of, or extract from, a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document;
or unless it is proved:
- (d) that having consented to become a director of the company he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or
- (e) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith

gave reasonable public notice that it was issued without his knowledge or consent; or

- (f) that after the issue of the prospectus and before allotment thereunder, he, on becoming aware of any untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of the withdrawal and of the reasons therefor.

(2) Where a prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorized or consented to the issue thereof, the directors of the company, except any without whose knowledge or consent the prospectus was issued, and any other person who authorized the issue thereof, shall be liable to indemnify the person named as aforesaid against all damages, costs and expenses to which he may be made liable by reason of his name having been inserted in the prospectus, or in defending himself against any action or legal proceedings brought against him in respect thereof.

(3) Every person who by reason of his being a director or named as a director or as having agreed to become a director, or of his having authorized the issue of the prospectus, becomes liable to make any payment under this section, may recover contribution, as in the cases of contract, from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable was, and that other person was not, guilty of fraudulent misrepresentation.

- (4) For the purposes of this section:

The expression "promoter" means a promoter who was a party to the preparation of the prospectus, or of the portion thereof containing the untrue statement, but does not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company;

The expression "expert" includes engineer, valuer, accountant, and any other person whose profession gives authority to a statement made by him. R.S.S. 1920, c. 76, s. 87.

EXTRACT FROM STATUTES OF SASKATCHEWAN, 1928-29, CHAPTER 28, ENTITLED "AN ACT RESPECTING COMPANIES".

PROSPECTUS

108. (1) Every prospectus issued by or on behalf of a company or in relation to any intended company shall be dated, and that date shall, unless the contrary be proved, be taken as the date of publication of the prospectus.

Publication
and filing of
Prospectus.

(2) A copy of every such prospectus, signed by every person who is named therein as a director or proposed director of the company, or by his agent authorized in writing, shall be filed with the registrar on or before the date of its publication and no such prospectus shall be issued until a copy thereof has been so filed for registration.

(3) The registrar shall not register any prospectus unless it is dated and the copy thereof signed in manner required by this section.

(4) Every prospectus shall state on the face of it that a copy has been filed for registration as required by this section.

(5) If a prospectus is issued without a copy thereof being so filed, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a fine not exceeding \$25 for every day from the date of the issue of the prospectus until a copy is so filed. R.S.S. 1920, c. 76, s. 84.

Contents of
prospectus.

109. (1) Every prospectus shall state:

- (a) the contents of the memorandum, with the names, descriptions and addresses of the signatories, and the number of shares subscribed for by them respectively; the number of founders' or management shares, if any, and the nature and extent of the interest of the holders in the property and profits of the company;
- (b) the number of shares, if any, fixed by the articles as the qualification of a director, and any provision in the articles as to the remuneration of the directors;
- (c) the names, descriptions and addresses of the directors or proposed directors;
- (d) the minimum subscription on which the directors may proceed to allotment, and the amount payable on application and allotment of each share; and in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment made within the two preceding years, and the amount actually allotted, and the amount, if any, paid on the shares so allotted;
- (e) the number and amount of shares and debentures which within the two preceding years have been issued, or agreed to be issued, as fully or partly paid-up otherwise than in cash, and in the latter case the extent to which they are so paid-up, and in either case the consideration for which those shares or debentures have been issued or are proposed or intended to be issued;
- (f) the names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of issue of the prospectus, and the amount payable in cash, shares or debentures, to the vendor, and where there is more than one separate vendor, or the company is a subpurchaser, the amount so payable to each vendor;

Provided that, where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors;

- (g) the amount, if any, paid or payable as purchase money in cash, shares, or debentures, for any such property as aforesaid, specifying the amount, if any, payable for good will;
- (h) the amount, if any, paid within the two preceding years, or payable, as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in, or debentures of, the company, and the rate of any such commission:

Provided that it shall not be necessary to state the commission paid to subunderwriters;

- (i) the amount or estimated amount of preliminary expenses;
- (j) the amount paid within the two preceding years or intended to be paid to any promoter, and the consideration of any such payment;
- (k) the dates of and parties to every material contract, and a reasonable time and place at which any material contract or a copy thereof may be inspected:

Provided that this requirement shall not apply to a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company, or any contract entered into more than two years before the issue of the prospectus;

- (l) the names and addresses of the auditors, if any, of the company;
- (m) full particulars of the nature and extent of the interest, if any, of every director in the promotion of, or in the property proposed to be acquired by, the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company;
- (n) where the company is a company having shares of more than one class, the right of voting at meetings of the company conferred by the several classes of shares respectively;
- (o) the amount intended to be reserved for working capital; and
- (p) the number of shares, if any, fixed by the articles of the company as the qualification of a director.

(2) For the purposes of this section every person shall be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase or for any option of purchase, of any property to be acquired by the company in any case where:

- (a) the purchase money is not fully paid at the date of the issue of the prospectus; or
- (b) the purchase money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus; or
- (c) the contract depends for its validity or fulfilment on the result of that issue.

(3) Where any property to be acquired by the company is to be taken on lease, this section shall apply as if the expression "vendor" included the lessor, and the expression "purchase money" included the consideration for the lease, and the expression "subpurchaser" included in a sublessee.

(4) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section, or purporting to effect him with notice of any contract, document or matter not specially referred to in the prospectus shall be void.

(5) Where any such prospectus as is mentioned in this section is published as a newspaper advertisement, it shall not be necessary in the advertisement to specify the contents of the memorandum or the signatories thereto, and the number of shares subscribed for by them.

(6) In the event of noncompliance with any of the requirements of this section, a director or other person responsible for the prospectus shall not incur any liability by reason of the noncompliance, if he proves that:

(a) as regards any matter not disclosed, he was not cognizant thereof; or

(b) the noncompliance arose from a honest mistake on his part;

Provided that in the event of non-compliance with the requirements contained in clause (m) of subsection (1) no director or other person shall incur any liability in respect of the noncompliance unless it is proved that he had knowledge of the matters not disclosed.

(7) This section shall not apply to a circular or notice inviting existing members or debenture holders of a company to subscribe either for shares or for debentures of the company either with or without the right to renounce in favour of other persons, but subject as aforesaid, this section shall apply to any prospectus whether issued on or with reference to the formation of a company or subsequently.

(8) The requirements of this section as to the memorandum and the qualification, remuneration and interest of directors, the names, descriptions and addresses of directors or proposed directors, and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date at which the company is entitled to commence business.

(9) Nothing in this section shall limit or diminish any liability which any person may incur under this Act apart from this section. R.S.S. 1920, c. 76, s. 85.

Restriction
on alteration
of contracts
mentioned in
prospectus.

110. A company shall not, previously to the statutory meeting, vary the terms of a contract referred to in the prospectus, except subject to the approval of the statutory meeting. R.S.S. 1920, c. 76, s. 86.

Liability for
statements in
prospectus.

111. (1) Where a prospectus invites persons to subscribe for shares in, or debentures of, a company, every person who is a director of the company at the time of the issue of the prospectus, and every person who has authorized the naming of him and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time, and every promoter of the company, and every person who has authorized the issue of the prospectus, shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for the loss or damage they may have sustained by reason of any untrue statement therein, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved:

(a) with respect to every untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, that he had reasonable ground to believe, and did up to the time of the allotment of the shares or debentures, as the case may be, believe that the statement was true; and

- (b) with respect to every untrue statement purporting to be a statement by, or contained in what purports to be, a copy of or extract from a report or valuation of an expert, that it fairly represented the statement or was a correct and fair copy of or extract from the reports or valuation:

Provided that the director, person named as director, promoter, or person who authorized the issue of the prospectus, shall be liable to pay compensation as aforesaid if it is proved that he had no reasonable ground to believe that the person making the statement, report, or valuation was competent to make it; and

- (c) with respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of, or extract from, a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document:

or unless it is proved:

- (d) that having consented to become a director of the company he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or
- (e) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was issued without his knowledge or consent; or
- (f) That after the issue of the prospectus and before allotment thereunder, he, on becoming aware of any untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of the withdrawal and of the reasons therefor.

(2) Where a prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorized or consented to the issue thereof, the directors of the company, except any without whose knowledge or consent the prospectus was issued, and any other person who authorized the issue thereof, shall be liable to indemnify the person named as aforesaid against all damages, costs and expenses to which he may be made liable by reason of his name having been inserted in the prospectus, or in defending himself against any action or legal proceedings brought against him in respect thereof.

(3) Every person who by reason of his being a director or named as a director or as having agreed to become a director, or of his having authorized the issue of the prospectus, becomes liable to make any payment under this section, may recover contribution, as in the cases of contract, from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable was, and that other person was not, guilty of fraudulent misrepresentation.

(4) For the purposes of this section:

The expression "promoter" means a promoter who was a party to the preparation of the prospectus, or of the portion thereof containing the untrue statement, but does not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company;

The expression "expert" includes engineer, valuer, accountant, and any other person whose profession gives authority to a statement made by him. R.S.S., 1920, c. 76, s. 87.

ALBERTA

STATUTES OF ALBERTA, 1929

DIVISION (4)—ORGANIZATION AND COMMENCEMENT OF BUSINESS

29. (1) A public company having a share capital shall not—
- (a) allot any of its shares; or
 - (b) commence any business; or
 - (c) exercise any borrowing powers; unless—
 - (i) the company has filed with the Registrar a prospectus complying with this Act, or, if the company does not issue any invitation to the public to subscribe for its shares, a statement in lieu of prospectus, according to Form 4 in the second schedule, naming therein an amount in cash as the minimum subscription upon which the directors may proceed to allotment: Provided that where the company proposes to take over an established business, and does not require or propose to issue any shares or debentures for cash to enable it to carry on that business, the company shall file a statement in lieu of prospectus according to Form 5 in the second schedule, and shall not be required to name therein a minimum subscription; and
 - (ii) the minimum subscription so named has been subscribed, and the sum payable on application therefor, which shall not be less than five per cent of the nominal amount of each share, or in the case of shares without nominal or par value, five per cent of the consideration for which each such share is being issued, has been paid to and received by the company; and
 - (iii) the company has filed with the Registrar a statutory declaration as prescribed by section 31; and
 - (iv) the Registrar has issued under his seal of office a certificate that the company is entitled to commence business.
- (2) The minimum subscription so named—
- (a) shall be the amount which the company shall fix as necessary in order that the company may, with reasonable prospect of success, carry out the plan of operations or conduct the business described in the prospectus or statement in lieu of prospectus; and
 - (b) shall be reckoned exclusively of any amount payable to the company otherwise than in cash; and
 - (c) shall only be expended for the purposes set forth in the statement or prospectus, unless the company by extraordinary resolution sanctions its expenditure for some other purpose authorized by the memorandum of the company.
- (3) (a) All money paid to and received by the company in respect of the minimum subscription shall be deposited as trust funds to its credit as trustee in a separate account in a branch or agency of a bank in the province, and the com-

pany shall hold and shall declare in its prospectus or statement in lieu of prospectus that it will hold all such moneys in trust to be repaid, if the minimum subscription is not subscribed, in accordance with this section.

- (b) If any such money is not so deposited and held, the directors of the company shall be jointly and severally liable to repay the money with interest at the rate of six per cent per annum from the date when it was paid to the company by the subscriber:

Provided that a director shall not be liable if he proves that the failure so to deposit and hold the money was not due to any misconduct or negligence on his part.

- (4) (a) In the case of a company which has filed a prospectus, if the minimum subscription has not been subscribed at the expiration of ninety days after the first issue of the prospectus, all money paid to and received by the company in respect of the minimum subscription shall be forthwith repaid to the subscribers without any deduction, but without interest; and if such money is not so repaid within one hundred and twenty days after the first issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of six per cent per annum from the expiration of the ninetieth day:

Provided that a director shall not be liable if he proves that the failure so to repay the money was not due to any misconduct or negligence on his part.

- (b) In the case of a company which has filed a statement in lieu of prospectus, the periods of ninety and one hundred and twenty days shall commence respectively from the date on which the statement is filed with the Registrar.
- (c) A judge of the Supreme Court may upon application either before or after the expiration of any such period, extend the same for such further period as may appear to him to be desirable.

(5) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of shares and debentures, or the receipt of any money payable on application for debentures.

(6) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

(7) Any condition requiring or binding an applicant for shares or debentures to waive compliance with any requirement of this section shall be void.

(8) An allotment made by a company to an applicant in contravention of this section shall be void, and shall be so void notwithstanding that the company is in course of being wound up.

(9) Every company which fails to comply with or contravenes any provision of this section shall be guilty of an offence against this Act.

(10) For the purposes of Forms 4 and 5 in the second schedule, the expression "vendor" shall have the meaning assigned to it by subsections (5) and (6) of section 84.

(11) This section shall not apply to an existing company in respect of any act done or omitted before the coming into force of this Act.

30. (1) A public company not having a share capital shall not—

- (a) admit any person to membership in the company; or
- (b) commence any business; or
- (c) exercise any borrowing powers, unless—
 - (i) the company has filed with the Registrar a prospectus complying with this Act, or, if the company does not issue any invitation to the public to become members in the company, a statement in lieu of prospectus, according to Form 4 in the second schedule, naming therein an amount in cash as the minimum subscription upon which the company may proceed to admit new members.

Provided that where the company proposes to take over an established business, and does not require or propose to admit any members for a subscription in cash to enable it to carry on that business, the company shall file a statement in lieu of prospectus according to Form 5 in the second schedule, and shall not be required to name therein a minimum subscription; and

- (ii) the minimum subscription so named has been subscribed, and the sum payable on application therefor, which shall not be less than five per cent of the amount which each member is required to contribute, has been paid to and received by the company; and
- (iii) the company has filed with the Registrar a statutory declaration as prescribed by section 32; and
- (iv) the Registrar has issued under his seal of office a certificate that the company is entitled to commence business.

(2) Subsections (2), (3), (4), (6), (9), (10), and (11) of section 29 shall apply to a company to which this section applies.

(3) Any condition requiring or binding an applicant for membership to waive compliance with any requirement of this section shall be void.

(4) An admission to membership by a company in contravention of this section shall be void, and shall be so void notwithstanding that the company is in course of being wound up.

31. (1) When the minimum subscription has been subscribed, the company shall file with the Registrar a statutory declaration by the directors—

- (a) according to Form 6 in the second schedule, in the case of a company which has filed a statement in lieu of prospectus and has named therein a minimum subscription; or
- (b) according to Form 7 in the second schedule, in the case of a company which has filed a statement in lieu of prospectus and has not named therein a minimum subscription; or
- (c) according to Form 8 in the second schedule, in the case of a company which has filed a prospectus;

Provided that where a director was by reason of his absence from the province or for other good reason unable to, and did not, perform his duties as a director in relation to the organization of the company pursuant to this Division, he shall not be required to make such a statutory declaration as aforesaid, but in lieu thereof shall make a statutory declaration stating why he was prevented from so performing his duties as a director.

(2) Upon the filing of such a statutory declaration as is prescribed by this section, the Registrar may issue under his seal of office a certificate that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled.

32. (1) Every public company shall, within six months from the date at which the company becomes entitled to commence business, hold a general meeting of the company (in this Act called "the statutory meeting").

(2) The directors shall, at least seven days before the day on which the meeting is held, forward to every member of the company, and to every person entitled under this Act to receive it, a report (in this Act called "the statutory report") made up to a date not more than seven days before the date of the notice of the statutory meeting, and shall at the same time cause a copy, certified as by this section required, to be filed with the Registrar.

(3) The statutory report shall be certified by not less than two directors of the company, or, where there are less than two directors, by the sole director and shall state—

- (a) the total number of shares or debentures allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares or debentures partly paid up, the extent to which they are so paid up, and in either case the consideration for which they have been allotted;
- (b) the total amount of cash received by the company in respect of all the shares and debentures distinguished as aforesaid;
- (c) an abstract of the receipts of the company, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made thereout, and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses of the company;
- (d) the full name, addresses, and descriptions of the directors, auditors (if any), managing directors (if any), and secretary of the company; and
- (e) the particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

(4) The statutory report shall, so far as it relates to the shares and debentures allotted by the company, and to the cash received in respect thereof, and to the receipts and payments of the company, be certified as correct by the auditors (if any) of the company.

(5) The provisions of subsections (3) and (4) relating to the particulars as to shares required to be stated in the statutory report shall not apply to a company not having a share capital; but in lieu thereof the statutory report shall state the number of members admitted, and the consideration for which they were respectively admitted, and the total amount of cash received from them, and the auditors (if any) shall certify accordingly.

(6) The directors shall cause a list showing the names, descriptions, and addresses of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any member of the company during the continuance of the meeting.

(7) The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company, or arising out of the statutory report, and to pass any ordinary resolution in relation thereto whether previous notice has been given or not.

(8) The meeting may adjourn from time to time, and an adjourned meeting shall have the same powers as an original meeting.

(9) Every company which makes default in complying with the requirements of this section shall be guilty of an offence against this Act.

(10) If default is made in filing such report as aforesaid or in holding the statutory meeting, then at the expiration of fourteen days after the last day on which the meeting ought to have been held any shareholder may petition the Court for the winding-up of the company; and upon the hearing of the petition the Court may either direct that the company be wound up or give directions for the report to be filed, or for a meeting to be held, or to make such other order as may be just; and may order that the costs of the petition be paid by any persons who in the opinion of the Court are responsible for the default.

33. A company shall not previous to the statutory meeting vary the terms of a contract referred to in the prospectus, or statement in lieu of prospectus, except subject to the approval of the statutory meeting.

34. (1) No shares or debentures of a public company allotted or issued or agreed to be allotted or issued to any person for property, services, or any consideration other than cash, shall be transferred, sold, or in anywise dealt with or disposed of before the statutory meeting of the company is held pursuant to this Act, and no certificate of any such share or debenture shall be issued or delivered by the company until that meeting is held.

(2) A transfer, sale, or other dealing in or disposition of shares or debentures contrary to this section shall be void.

(3) Every company and person who contravenes this section shall be guilty of an offence against this Act, and the directors of the company shall be liable to compensate the company and any person injured for any loss, damage, or costs which the company or such person may have sustained or incurred by a contravention of this section:

Provided that—

- (a) a director shall not be liable if he proves that the contravention was not due to any misconduct or negligence on his part; and
- (b) proceedings to recover any such loss, damage, or costs shall not be commenced after the expiration of two years from the date of the contravention.

DIVISION (3)—FINANCIAL AND BORROWING PROSPECTUSES

83. (1) Every prospectus issued by or on behalf of a company shall—

- (a) be dated, and a copy thereof shall be filed with the Registrar on or before that date, which shall, unless the contrary be proved, be taken as the date of the issue of the prospectus; and
- (b) state on its face that a copy has been filed with the Registrar—

and the copy filed with the Registrar shall be signed by every person who is a director or proposed director of the company on the date of publication or by his agent authorized in writing.

(2) The Registrar shall not file any prospectus unless it is dated and signed in manner required by subsection (1).

(3) Every company and person who makes default in complying with or contravenes any requirement of this section shall be guilty of an offence against this Act.

(4) This section shall apply to a prospectus issued in relation to an intended company, or by or on behalf of any person who is or has been engaged or interested in the formation or promotion of the company, or, prior to the date of the statutory meeting, in the organization of a company.

84. (1) In the case of a company having a share capital every prospectus to which section 83 applies shall state—

- (a) the date of incorporation of the company; the address of its registered office; the extent of the liability of members of the company; and the contents of its memorandum and articles as to the amount of the authorized capital and the shares or classes of shares into which it is divided, and as to the amount or rate of commission, or, in the case of debentures, of discount, which the company is authorized to pay or allow, under this Act, and the amounts of capital subscribed and paid up respectively, and the amount (if any) due from the company in respect of mortgages;
- (b) particulars of the plan of operations of the business which the company proposes to carry on by means of the proceeds of the subscription invited by the prospectus, and the place where the operations or business will be carried on;
- (c) the number of shares or the amount of debentures offered by the prospectus, and the amount payable on the application for and the allotment of each share or debenture, and the amount or rate of any commission or discount to be paid or allowed thereon;
- (d) the amount fixed as the minimum subscription on which the directors may proceed to allotment, with an itemized account

showing how that amount is estimated or calculated, and in particular the items for preliminary expenses, and the amount or estimated amount paid or payable for services rendered or to be rendered in relation to the formation or organization of the company, or as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares offered by the prospectus, or allowed or to be allowed as discount in respect of any debentures, offered by the prospectus;

- (e) particulars of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the subscription invited by the prospectus, or has been within the last two preceding years or is to be paid for by shares or debentures, or the purchase or acquisition of which has not been completed at the date of issue of the prospectus, and the title or interest therein acquired or to be acquired by the company;
- (f) the name and address of every vendor of property under clause (e) and, in the case of a promoter, the amount paid by him in cash, shares, or debentures for the property within the last two preceding years, and the amount (specifying separately the amount (if any) for goodwill) paid or payable in cash, shares or debentures to him for the property. Where there is more than one separate vendor, or the company is a sub-purchaser, particulars as to each vendor shall be stated;

Provided that where the vendors or any of them are a firm the members of the firm shall not be treated as separate vendors;

- (g) where debentures are offered for subscription, particulars of the security which has been or will be created for those debentures, specifying the property (if any) comprised in the security and the nature of the title to the property;
- (h) particulars of any services rendered or to be rendered to the company which are to be paid by the company wholly or partly out of the proceeds of the subscription invited by the prospectus, or have been within the last two preceding years, or are to be paid for by shares or debentures;
- (i) the amount paid within the last two preceding years or intended to be paid to any promoter, with his name and address, and the consideration for any such payment, and the amount in cash subscribed by him for shares or debentures of the company or otherwise contributed by him to the company;
- (j) particulars showing—
 - (i) the number of founders' or management or deferred shares (if any), and the nature and extent of the interest of the holders in the property and profits of the company;
 - (ii) the right of voting at meetings of the company, and where the company is a company having shares of more than one class, the rights conferred by the several classes respectively; but this paragraph shall not apply in the case of an offer of debentures only;
 - (iii) The number of shares (if any) fixed by the articles as the qualification of a director;

- (iv) Any provision in the articles as to the remuneration of the directors, and the remuneration paid or payable to any director;
- (v) Whether or not a copy of the company's annual balance sheet and the report of the directors and auditors must under the articles be sent to members of the company; this paragraph shall not apply in the case of an offer of debentures only;
- (k) the full names, descriptions, and addresses of the directors and proposed directors, and the amount in cash subscribed by each of them for shares and debentures of the company or otherwise contributed by each of them to the company;
- (l) full particulars of the nature and extent of the interest (if any) of every director in the promotion of, or in the property proposed to be acquired by, the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company; but this clause shall not apply in the case of a prospectus issued more than two years after the date on which the company is entitled to commence business, except as to the particulars relating to property proposed to be acquired by the company;
- (m) The names and addresses of the auditors (if any) of the company;
- (n) in the case of a second or subsequent offer of shares or debentures, separate particulars of—
 - (i) the amount offered for subscription on each previous offer made within the last two preceding years, and the amount actually allotted, and the amount (if any) paid on shares so allotted;
 - (ii) the amount (if any) paid within the last two preceding years, or payable, as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in or debentures of the company, or allowed or to be allowed as discount in respect of any debentures, and the date or amount of any such commission or discount;
 - (iii) the number and amount of shares and debentures which within the last two preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or are proposed or intended to be issued, and the name and address of any vendor of property forming such consideration, and the amount paid or payable to him as purchase-money in cash, shares, or debentures for the property, specifying the amount (if any) payable for goodwill;
 - (iv) the amount paid within the last two preceding years or intended to be paid to any promoter, and the consideration for any such payment;

- (o) when the prospectus is issued more than one year after the date of the incorporation of the company, a copy of its last balance sheet and general information as to the business which has been carried on by the company and as to its property and assets;
- (p) the dates of and parties to every material contract, and a reasonable time and place at which any material contract or a copy thereof may be inspected:

Provided that this requirement shall not apply to a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company, or to any contract entered into more than two years before the date of issue of the prospectus.

(2) The information required by subsection (1) to be stated in a prospectus shall be contained in a separate part of the prospectus, commencing with the words "Statutory Information" in conspicuous type, and no other matter shall be included in that part of the prospectus;

Provided that the information required by clauses (b), (c) and (m) of subsection (1) and the full names, descriptions and addresses of the directors and proposed directors may be stated in any part of the prospectus.

(3) In the case of a prospectus issued by a company before it has obtained a certificate entitling it to commence business, the prospectus shall include in the "Statutory Information," in conspicuous type, the following statement, namely:—

"This company has not yet obtained a certificate entitling it to commence business, and is not authorized to allot any shares or debentures, unless the minimum subscription stated in the Statutory Information set forth in this prospectus is subscribed, and a certificate to commence business is subsequently issued to the company under The Companies Act, 1929. All money received by the company in respect of the minimum subscription will, in accordance with The Companies Act, 1929, be held in trust by the company, to be repaid if the minimum subscription is not subscribed."

- (4) (a) The company shall, upon receipt of his application, forthwith furnish every person who subscribes for any shares or debentures of the company offered by the prospectus, with an acknowledgment of his application and a copy of the prospectus.
- (b) Where any matter not amounting to a prospectus, but which expressly or by implication invites the public to inquire into the plans or prospects of a company, or as to subscriptions for or the purchase of shares or debentures of a company, is printed, published, or advertised by or on behalf of the company, the company shall, upon receipt of his application, forthwith furnish every person who subscribes for or purchases any shares or debentures of the company with an acknowledgment of his application and a statement in writing of such information as is by subsection (1) required to be contained in a prospectus.
- (c) Where the shares or debentures of a company are being offered to the public for subscription or purchase and no prospectus is issued in relation to such shares or debentures,

and where any person calls at any house, office, or other place and there invites and obtains a subscription or application for any such shares or debentures, he shall forthwith deliver to each person from whom he obtains such subscription or application a statement in writing of such information as is by subsection (1) required to be contained in a prospectus. It shall be the duty of the company, or, where the person so calling is an agent, the duty of his principal, to provide copies of such statement.

- (d) In the case of any statement required by clause (b) or (c) of this subsection, sections 83 and 86 shall, *mutatis mutandis*, apply as if a prospectus had been issued, and where the company has not yet obtained a certificate entitling it to commence business, subsection (3) of this section and sections 29 and 31 shall also apply, *mutatis mutandis*, as if a prospectus had been issued.
- (e) This subsection shall apply to every case to which subsection (4) of section 83 applies.
- (5) For the purposes of this section, every person shall be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property to be acquired by the company, in any case where—
 - (a) the purchase-money payable by the vendor is not fully paid at the date of issue of the prospectus; or
 - (b) such purchase-money is to be paid or satisfied wholly or in part out of the proceeds of the subscription invited by the prospectus; or
 - (c) the contract depends for its validity or fulfilment on the result of that invitation.
- (6) Where any of the property to be acquired by the company is to be taken on lease, this section shall apply as if the expression “vendor” included the lessor, and the expression “purchase-money” included the consideration for the lease, and the expression “sub-purchaser” included a sub-lessee.

(7) This section shall not apply to a circular or notice inviting existing members or debenture-holders of a company to subscribe either for shares or for debentures of the company, whether with or without the right to renounce in favour of other persons.

(8) In the event of non-compliance with any of the requirements of this section, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance, if he proves that—

- (a) as regards any matter not disclosed, he was not cognizant thereof; or
- (b) the non-compliance arose from an honest mistake of fact on his part:

Provided that, in the event of non-compliance with the requirements contained in paragraph (1) of subsection (1) no director or other person shall incur any liability in respect of the non-compliance unless it be proved that he had knowledge of the matters not disclosed.

(9) Subject to subsection (8), every company and person who makes default in complying with any requirement of this section shall be guilty of an offence against this Act.

(10) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document, or matter not specifically referred to in a prospectus or a statement under clause (b) of subsection (4) shall be void.

(11) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Act apart from this section.

85. (1) In the case of a company not having a share capital, every prospectus to which section 83 applies shall state—

- (a) the information required by subsection (1) of section 84, except insofar as it refers to shares;
- (b) the number of persons whom the company invites to become members, or the amount of debentures offered by the prospectus, and the amount payable on the application for and admission to membership or the application for and allotment of each debenture, as the case may be;
- (c) particulars showing—
 - (i) if the membership is divided into different classes, the nature and extent of the interest of each class in the property and profits of the company;
 - (ii) the right of voting at meetings of the company, and where the membership is divided into different classes, the rights conferred by the several classes of membership respectively, but this paragraph shall not apply in the case of an offer of debentures only;
 - (iii) the qualification (if any) fixed by the articles for a director;
 - (iv) any provision in the articles as to the remuneration of the directors, and the remuneration paid or payable to any director;
 - (v) whether or not a copy of the company's annual balance sheet and the reports of the directors and auditors must under the articles be sent to members of the company; but this paragraph shall not apply in the case of an offer of debentures only;
- (d) in the case of a second or subsequent invitation to the public to become members of the company—
 - (i) the number of persons invited within the last two preceding years, and the numbers of members actually admitted, and the amount (if any) paid by them for membership;
 - (ii) the number of members admitted as members within the last two preceding years for a consideration other than cash, and the consideration (specifying separately any amount for goodwill) for which they were so admitted, and the extent to which they are paid up, and the name and address of the vendor of any property forming such consideration.

(2) In the case of a prospectus issued by a company before it has obtained a certificate entitling it to commence business, the prospectus shall include in the "Statutory Information," in conspicuous type the following statement, namely:—

"The company has not yet obtained a certificate entitling it to commence business and is not authorized to admit any members or allot any debentures, unless the minimum subscription stated in the Statutory Information set forth in this prospectus is subscribed, and a certificate to commence business is subsequently issued to the company under The Companies Act, 1929. All money received by the company in respect of the minimum subscription will, in accordance with The Companies Act, 1929, be held in trust by the company, to be repaid if the minimum subscription is not subscribed."

- (3) (a) The company shall, upon receipt of his application, forthwith furnish every person who applies for any membership invited by or subscribes for any debentures of the company offered by the prospectus with an acknowledgment of his application and a copy of the prospectus.
- (b) Where any matter not amounting to a prospectus, but which expressly or by implication invites the public to inquire into the plans or prospects of a company, or as to admission to membership in or the purchase of debentures of a company, is printed, published, or advertised by or on behalf of the company, the company shall, upon receipt of his application, forthwith furnish every person who applies for membership or purchases any shares or debentures of the company with an acknowledgment of his application and a statement in writing of such information as is by subsection (1) required to be contained in a prospectus.
- (c) Where the public is invited to become members of a company or the debentures of a company are being offered to the public for subscription or purchase and no prospectus is issued in relation to such membership or debentures, and where any person calls at any house, office or other place and there invites and obtains an application or subscription for any such membership or debentures, he shall forthwith deliver to each person from whom he obtains such application or subscription a statement in writing of such information as is by subsection (1) required to be contained in a prospectus. It shall be the duty of the company, or, where the person so calling is an agent, the duty of his principal, to provide copies of such statement.
- (d) In the case of any statement required by clause (b) or (c) of this subsection, sections 83 and 86 shall, *mutatis mutandis*, apply as if a prospectus had been issued, and where the company has not yet obtained a certificate entitling it to commence business, subsection (2) of this section and sections 30 and 31 shall also apply, *mutatis mutandis*, as if a prospectus had been issued.
- (e) This subsection shall apply to every case to which subsection (4) of section 83 applies.

(4) Subsections (2) and (5) to (11) of section 84 shall apply to a company under this section.

86. (1) Where a prospectus invites persons to subscribe for shares in or debentures of a company or to become members of a company, every person who is a director of the company at the time of the issue of the prospectus, and every person who is with his consent named

in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time, and every promoter of the company, and every person who has authorized the issue of the prospectus, shall be liable to pay compensation to all persons who subscribe for any shares or debentures or apply for membership on the faith of the prospectus for the loss or damage they may have sustained by reason of any untrue statement therein, or in any report of memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved—

- (a) with respect to every untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, that he had reasonable ground to believe, and did up to the time of the allotment of the shares or debentures or admission to membership, as the case may be, believe, that the statement was true; and
- (b) with respect to every untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation:

Provided that the director, person named as director, promoter, or person who authorized the issue of the prospectus, shall be liable to pay compensation as aforesaid if it is proved that he had no reasonable ground to believe that the person making the statement, report, or valuation was competent to make it; and

- (c) with respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document;

or unless it is proved—

- (d) that having consented to become a director of the company he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or
- (e) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was issued without his knowledge or consent; or
- (f) that after the issue of the prospectus and before allotment thereunder, he, on becoming aware of any untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of the withdrawal, and of the reason therefor.

(2) Every person to whom clause (e) or (f) of subsection (1) applies shall file with the Registrar a copy of any notice of withdrawal or public notice given by him, within seven days from the date of his notice.

(3) Where the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorized or consented to the issue thereof, the directors of the company, except any without whose knowledge or consent the prospectus was issued, and any other person who authorized the issue thereof, shall be liable to indemnify the person named as aforesaid against all damages, costs, and expenses to which he may be made liable by reason of his name having been inserted in the prospectus, or in defending himself against any action or legal proceedings brought against him in respect thereof.

(4) Every person who by reason of his being a director or of his being named as a director or of his having agreed to become a director, or of his having authorized the issue of the prospectus, becomes liable to make any payment under this section may recover contribution, as in cases of contract, from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable was, and that other person was not, guilty of fraudulent misrepresentation.

(5) For the purposes of this section—

- (a) the expression "promoter" means a promoter who was a party to the preparation of the prospectus, or of the portion thereof containing the untrue statement but does not include any person by reason only of his acting in a professional capacity for persons engaged in procuring the formation of the company; and
- (b) the expression "expert" includes engineer, valuer, accountant, and any other person whose profession gives authority to a statement made by him.

BILL

No. 23 OF 1929

An Act for the Prevention of Fraud in connection with the
Sale of Securities

(Assented to March 20, 1929.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:—

1. This Act may be cited as "The Security Frauds Prevention Act, 1929."

2. In this Act, unless the context otherwise requires,—

- (a) "Broker" shall mean every person other than a salesman who engages either for the whole or part of his time directly or through an agent in the business of trading in securities, and includes such officials of a company or partnership which trades in securities as may be designated by the regulations;

- (b) "Company" shall include any association, corporation, company or other incorporated organization, whether acting as a trustee or not;
- (c) "Fraud," "fraudulent" or "fraudulent act," in addition to its ordinary meaning, shall include—
 - (i) any intentional misrepresentation by word, conduct or in any manner of any material fact either present or past, and any intentional omission to disclose any such fact;
 - (ii) any promise or representation as to the future which is beyond reasonable expectation and not made in good faith;
 - (iii) any fictitious or pretended trade in any security;
 - (iv) the gaining of, or attempt to gain, directly or indirectly, through a trade in any security, a commission, fee or gross profit so large and exorbitant as to be unconscionable and unreasonable;
 - (v) generally any course of conduct or business which is calculated or put forward with intent to deceive the public or the purchaser of any security as to the nature of any transaction or as to the value of such security;
 - (vi) the making of any material false statement in any application, information, material or evidence submitted or given to the Attorney General, his representative or the registrar under the provisions of this Act or the regulations; or in any prospectus or return filed with the Provincial Secretary;
 - (vii) the violation of any provision of this Act or of the regulations relating to the manner in which brokers or salesmen shall trade in securities and anything specifically designated in the regulations as coming within the meaning of this definition;
 - (viii) any artifice, agreement, device or scheme to obtain money, profit or property by any of the means hereinbefore set forth or otherwise contrary to law;
- (d) "Person" shall mean an individual, partnership, association, syndicate and any unincorporated organization whether acting as a trustee or not;
- (e) "Registrar" shall mean the person appointed by the Lieutenant-Governor in Council to act as registrar under the provisions of this Act and the regulations;
- (f) "Regulations" shall mean the regulations made from time to time by the Lieutenant-Governor in Council under the provisions of this Act;
- (g) "Salesman" shall mean every person employed, appointed or authorized by any broker or company to trade in securities whether directly or through sub-agents;
- (h) "Security" shall include, subject to the provisions of subsection (3) of section 3, any document or instrument commonly known as a security, every documentary evidence of indebtedness or evidence representing or secured by some title to or interest in the capital, assets, property, profits, earnings or royalties of any person or company, evidence of membership in an association of heirs or evidence of any option upon a security and anything designated as a security by the regulations;

- (i) "Trade" or "trading" shall include, subject to the provisions of subsection (3) of section 3, any disposition of, transaction in, or attempt to deal in, sell or dispose of a security or interest in or option upon a security for any valuable consideration, whether the terms of payment be upon margin, instalment or otherwise, and any underwriting of any issue or part of an issue of a security, the obtaining of a subscription to the capital stock of any organization, whether incorporated or not, and any act, advertisement, conduct or negotiation directly or indirectly in furtherance of any of the foregoing or specifically designated as "trade" or "trading" in the regulations;
- (j) "Trustee" shall mean a person, or a company, as the case may be, executing a trust expressly created by or declared in an instrument in writing other than a will or court order or judgment, where such trust is to carry on any business or to secure the payment or repayment of money.

PART I

REGISTRATION OF BROKERS AND SALESMEN

3. (1) No person shall—

- (a) trade in any security unless he is registered as a broker or salesman;
- (b) act as an official of or on behalf of any partnership or company in connection with any trade in any security by the partnership or company, unless he or the partnership or company is registered as a broker;
- (c) act as a salesman of or on behalf of any partnership or company in connection with any trade in any security by the partnership or company, unless he is registered as a salesman—

and unless such registrations have been made in accordance with the provisions of this Act and the regulations; and any violation of this section shall constitute an offence.

(2) With the approval of the Attorney-General, any partnership or company may be registered as a broker, whereupon the partnership or company may trade in securities, and the members and officials of the partnership, and the officials of the company other than branch managers or salesmen of the partnership or company, may act as such without separate registration, and the provisions of this Act, and of the regulations relating to registered persons or companies, shall be deemed to apply to such partnership or company.

(3) Subsections (1) and (2) shall not apply to any person in respect of any of the following classes of trades or securities:

- (a) a trade in a security taking place at a judicial, executor's, administrator's, guardian's or committee's sale, or at a sale by an authorized trustee or assignee, an interim or official receiver or a custodian under the Bankruptcy Act, a receiver under The Judicature Act, or a liquidator under The Companies Act, 1929;

- (b) an isolated trade in a specific security by or on behalf of the owner, for the owner's account, where such trade is not made in the course of continued and successive transactions of a like character;
- (c) a trade where one of the parties is a bank, loan company, trust company or insurance company, or is an official or employee, in the performance of his duties as such, of His Majesty in right of the Dominion or any province or territory of Canada or of any municipal corporation, or public board or commission in Canada or is registered as a broker under the provisions of this Act;
- (d) a trade by or for the account of a pledgee or mortgagee for the purpose of liquidating a bona fide debt by selling or offering for sale or delivery, in good faith, in the ordinary course of business, a security pledged in good faith as security for such debt;
- (e) the distribution, issuance or sale by a company exclusively to the holders of its securities of capital stock, bonds or other securities as a stock dividend or other distribution out of earnings or surplus, or in the process of a bona fide reorganization of the company, or of additional capital stock where no commission or other remuneration is paid or given in connection therewith;
- (f) the exchange by or on account of one company with another company of its own securities in connection with a consolidation, amalgamation or merger of either company;
- (g) a trade in good faith by an actual prospector of a security issued by him for the purpose of financing a prospecting expedition, or for the purpose of disposing of any of his interest in a mining claim or property staked by or wholly or partly owned by him;
- (h) securities in which trust funds may lawfully be invested in Alberta;
- (i) bonds or notes secured by mortgage upon real estate or tangible personal property where the entire mortgage, together with all of the bonds or notes secured thereby, are sold at the one time;
- (j) negotiable promissory notes or commercial paper maturing not more than a year from the date of issue;
- (k) securities evidencing indebtedness due under any contract made pursuant to the provisions of any statute of any province of Canada providing for the acquisition of personal property under conditional sales contracts;
- (l) securities issued by a person or company organized exclusively for the promotion of art, science, charity, religion or other useful object, or for educational, benevolent, fraternal, charitable, or recreational purposes and not for pecuniary profit, where no part of the net earnings thereof enure to the benefit of any security holder;
- (m) any class of trade or security specifically exempted from the application of subsections (1) and (2) of this section by the regulations.

4. (1) Unless the Attorney-General otherwise directs, the registrar may within ten days after the receipt by him of any applica-

tion for registration cause to be entered in a book kept for such purpose and open to public inspection, hereinafter called "the Register," the name and address for service of such applicant, whereupon such applicant shall be deemed to be registered as a broker or salesman as the case may be.

(2) The registrar may upon the direction of the Attorney General or his representative authorized in writing cause a temporary entry to be made, designated as such, in the register, subject to cancellation at any time upon the order of the Attorney-General.

(3) Registrations shall expire, and may be changed or renewed as the regulations shall provide.

5. (1) Every application under this Act or the regulations shall be made in writing upon the forms provided by the registrar.

(2) Every applicant, whether domiciled in Alberta or not, shall state in every application an address for service in Alberta, and all notices under this Act, or the regulations and all legal process issued by or on behalf of any person or company, shall be sufficiently served for all purposes if posted by registered mail to the applicant at the latest address for service so stated, and in the case of a non-registered company where the officials are registered, to the latest address of the person registered as the senior official of such company in Alberta.

(3) The registrar may from time to time and shall when so directed by the Attorney-General require any further information or material to be submitted by any applicant or any registered person or company within a specified time and may require verification by affidavit or otherwise of any matter then or previously submitted.

6. (1) Every applicant for registration as a broker shall before registration submit a bond by the applicant, or the person or company he represents, as the registrar may require, such bond to be in the sum of \$500 and in such form and upon such conditions as the regulations shall prescribe, and shall pay the fee prescribed by the regulations.

(2) The registrar may, and when so directed by the Attorney-General shall, require any applicant or any registered person or company within a specified time to deliver a bond by a surety company approved by the Attorney-General or any other bond in such form and upon such conditions as the regulations shall prescribe, and in such amount as the regulations or the Attorney-General shall require.

(3) The registrar may, and when so directed by the Attorney-General shall, require a new bond of the kind mentioned in subsections (1) or (2) to be filed within a specified time.

7. (1) Any bond mentioned in section 6 shall be forfeit and the sum named therein shall become due and owing by the person or company bound thereby as a debt to His Majesty in right of the Province when there has been filed with the registrar the Attorney-General's certificate that the person or company in respect of whose conduct the bond is conditioned, or any official, employee or salesman of such company has, in connection with a trade in a security been—

(a) in the case of the bond mentioned in subsection (1) of section 6—

(i) charged with any criminal offence; or,

(ii) found upon investigation by the Attorney-General or his representative to have committed a fraudulent act; or

(b) in the case of the bond mentioned in subsection (2) of section 6—

- (i) convicted of a criminal offence; or
- (ii) convicted of an offence against any provision of this Act or the regulations; or
- (iii) enjoined by the Supreme Court or a judge thereof otherwise than by an interim injunction.

(2) The Attorney-General may assign any bond forfeited under the provisions of subsection (1) or may pay over any moneys required thereunder to any person, or into the Supreme Court in trust for such persons and companies as may become judgment creditors of the person or company bonded, or to any trustee, custodian, interim receiver, receiver or liquidator of such person or company as the case may be, such assignment or payment over to be in accordance with and upon conditions set forth in the regulations or in any special order of the Lieutenant-Governor in Council.

8. (1) The Attorney-General may order that—

- (a) any application for registration, renewal or change of registration shall or shall not be granted for any reason which he may deem sufficient;
- (b) the application of any person for registration shall not be granted where it appears that such person proposes to use or is using a trading name other than his own, or that of his partner, where such trading name is apt to lead the public to believe it is that of a business firm of longer established standing in the Province or is calculated to conceal from the public the identity of the applicant, or is for any reason objectionable;
- (c) any temporary entry in the register shall be made, suspended or cancelled for any reason which he may deem sufficient;
- (d) the registration of any person or company shall be suspended for any period or cancelled by reason of default in filing a bond when required under the provisions of subsections (2) and (3) of section 6;
- (e) the registration of any person or company shall be suspended as provided in section 10—

and no order of the Attorney-General shall be subject to review in any way in any court.

(2) The registrar upon receiving any order of the Attorney-General suspending or cancelling any registration shall cause immediate entry thereof to be made in the register, whereupon the suspension or cancellation shall become effective forthwith, but notice thereof and of the refusal of any application shall be sent to the person or company concerned.

(3) Notwithstanding any order of the Attorney-General a further application may be made upon new or other material, or where it is clear that material circumstances have changed.

PART II

INVESTIGATION AND ACTION BY ATTORNEY-GENERAL

9. (1) The Attorney-General, or any person to whom as his representative he may in writing delegate such authority, may examine any person or thing whatsoever at any time in order to ascertain whether any fraudulent act, or any offence against this Act or

the regulations has been, is being, or is about to be committed, and for such purpose shall have the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath and to produce documents, records and things as is vested in the Supreme Court or a judge thereof for the trial of civil cases, save that no person shall be entitled to claim any privilege in respect of any evidence or document, record or thing, sought to be given or produced, on the ground that he might be incriminated or exposed to a penalty thereby.

(2) The failure without reasonable excuse of any person or company to furnish information required by the registrar under Part I within the time limited, or the failure without reasonable excuse of any person summoned for examination under subsection (1) to appear or his refusal to give evidence, or to answer any questions, or the failure without reasonable excuse or refusal of any person or company to produce anything where the evidence, answer or production would be required in an action shall constitute an offence and shall also be *prima facie* evidence upon which—

- (a) the Attorney-General, or his representative, may base an affirmative finding concerning any fraudulent act to which he may deem it relevant; or
- (b) the Supreme Court, or a judge thereof, may grant an interim or permanent injunction; or
- (c) a police magistrate may base a conviction for an offence against this Act or the regulations.

(3) Disclosure by any person other than the Attorney-General, his representative or the registrar, without the consent of any one of them, of any information or evidence obtained, or the name of any witness examined or sought to be examined under subsection (1), shall constitute an offence.

10. If the Attorney-General or his representative upon investigation finds that any fraudulent act, or that any offence against this Act or the regulations, has been, is being, or is about to be committed, the Attorney-General—

- (a) may where a registered broker, company or salesman is in his opinion concerned therein, order that the broker, company or salesman and any other registered broker, company or salesman connected with the same organization, be suspended from registration for any period not exceeding ten days; or
- (b) may where he considers a suspension for ten days inadequate, or where any unregistered person or company is in his opinion concerned in such fraudulent act or in such offence, proceed under the provisions of section 11, or otherwise under this Act or the regulations; or
- (c) may give notice of the fraudulent act to the public by advertisement or otherwise or to any individual by letter or otherwise, whenever he deems it advisable.

11. (1) The Supreme Court or any judge thereof, upon the application of the Attorney-General, where it is made to appear upon the material filed or evidence adduced that any fraudulent act, or

any offence against this Act or the regulations has been, is being, or is about to be committed, may by order enjoin—

- (a) any registered broker, company or salesman or any person or company implicated with any of them in the same matter from trading in any security whatever absolutely or for such period of time as shall seem just, and any such injunction shall ipso facto suspend the registration of any registered person or company named in the order during the same period; or
 - (b) any person or company from trading in any security whatever, or in any specific security, or from committing any specific fraudulent act or series of fraudulent acts absolutely or for such period of time as shall seem just.
- (2) The application of the Attorney-General under subsection (1) may be made without any action being instituted either—
- (a) by an ex parte motion for an interim injunction which shall, if granted, remain in full force for ten days from the date thereof unless the time is extended or the originating motion mentioned in clause (b) is sooner heard and determined; or
 - (b) by an originating notice of motion, which, if an interim injunction has been granted, shall be served within five and returnable within ten days from the date of such interim injunction.
- (3) Any information, evidence, exhibit or thing obtained by the Attorney-General or his representative or the registrar under the provisions of this Act or the regulations, or copies thereof, certified by the Attorney-General or the registrar shall, so far as relevant, be receivable in evidence for all purposes in any action, proceeding or prosecution and, in proceedings under this section only, the evidence of a witness may be used against him notwithstanding anything in The Alberta Evidence Act contained.

12. (1) The Attorney-General may—

- (a) when he is about to examine or during or after the examination of any person or company under the provisions of section 9; or
- (b) when he is about to apply for, or has applied for, or has obtained an injunction interim or otherwise against any person or company under the provisions of section 11; or
- (c) where criminal proceedings which in his opinion are connected with or arise out of any security or any trade therein, or out of any business conducted by the accused, are about to be or have been instituted against any person—

in writing or by telegram direct any person or company having in Alberta on deposit or under control or for safe keeping any funds or securities of the person or company so to be or actually examined, enjoined or charged, to hold such funds or securities in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the provisions of The Bankruptcy Act, The Judicature Act, or The Companies Act, 1929, or until the Attorney-General in writing revokes such direction or consents to release any particular fund or security from such direction, and failure without reasonable excuse by any person or company to comply with any such direction

shall constitute an offence, provided that, unless such direction expressly so states, it shall not apply to funds or securities in a stock exchange clearing house nor to securities in process of transfer by a transfer agent, and in the case of a bank, loan or trust company the direction shall only apply to the offices, branches or agencies thereof named in the direction.

(2) In any of the circumstances mentioned in clauses (a) and (b) of subsection (1), the Attorney-General may make and file, in the land titles office of any land registration district in which is situated land, belonging to any person or company referred to in the said clauses, a certificate that he is about to take or has taken proceedings under the provisions of section 9 or section 11, as the case may be, and such certificate shall, when registered, have the same effect as the registration of a certificate of *lis pendens*.

(3) Any person or company in receipt of a direction given under subsection (1) if in doubt as to the application of such direction to any funds or security, or in case of a claim being made thereto by any person or company not named in such direction, may apply to the Supreme Court or a judge thereof, who may direct the disposition of such fund or security and may make such order as to costs as may seem just.

(4) The Attorney-General, whenever His Majesty becomes a creditor of any person or company in respect of a debt to the Crown arising from the provisions of sections 6 and 7, may take such proceedings as he shall see fit under The Bankruptcy Act, The Judicature Act, or The Companies Act, 1929, for the appointment of an interim receiver, custodian, trustee, receiver or liquidator as the case may be.

PART III

GENERAL PROVISIONS

13. (1) A judge of the Supreme Court in exercising any of the powers conferred upon such judge by this Act shall be deemed so to act as a judge of such court and not as *persona designata*.

(2) The Attorney-General shall in all proceedings under this Act or the regulations be deemed to be acting as the representative of His Majesty in the right of the Province, and not as *persona designata*.

(3) The provisions of The Judicature Act and the rules of court made thereunder so far as they are applicable to proceedings of a like nature, including those relating to appeals and to the enforcement of judgments and orders, shall apply to every proceeding before the Supreme Court or a judge thereof under the provisions of this Act, save that service of notices and other legal process shall be in accordance with subsection (2) of section 5 and save that costs may be awarded to but not against the Attorney-General.

14. No action whatever, and no proceedings by way of injunction, mandamus, prohibition or other extraordinary remedy shall lie or be instituted against any person whether in his public or private capacity or against any company in respect of any act or omission in connection with the administration or carrying out of

the provisions of this Act or the regulations where such person is the Attorney-General or his representative, or the registrar, or where such person or company was proceeding under the written or verbal direction or consent of any one of them, or under an order of the Supreme Court or a judge thereof made under the provisions of this Act.

15. The Lieutenant-Governor in Council may make regulations not inconsistent with this Act for the better carrying out of the provisions of this Act, for the more efficient administration thereof and for the prevention of fraud in trading in securities whether upon any stock exchange or elsewhere in the Province, for the creation of offences, and for any other purpose elsewhere indicated in this Act, and all such regulations and any amendment, alteration or repeal thereof shall become effective in all respects as if enacted in this Act upon the publication thereof in *The Alberta Gazette*.

16. (1) Every person who violates any provision of this Act or the regulations designated as an offence, or who does any fraudulent act not punishable under the provisions of The Criminal Code, shall be liable upon summary conviction to a penalty of not less than five hundred dollars nor more than one thousand dollars for a first offence, and not less than one thousand dollars nor more than two thousand dollars for a second or subsequent offence, and in case of either a first or a subsequent offence either in default of payment of any penalty imposed, or in addition to such penalty, to imprisonment for a term not exceeding six months.

(2) The provisions of subsection (1) shall be deemed to apply mutatis mutandis, to any company save that the money penalties may be increased in the discretion of the magistrate to a sum not exceeding twenty-five thousand dollars.

(3) No proceedings under this section shall be instituted except with the consent or under the direction of the Attorney-General.

(4) Subject to the provisions of subsection (3), any police officer or police constable may, without warrant, arrest any person whom he believes to have committed an offence against this Act, and enter any place, if need be by force, and seize such documents or other things whatsoever as he finds therein.

17. The Sales of Shares Act is hereby repealed.

18. This Act shall come into force upon a date to be fixed by Proclamation of the Lieutenant-Governor in Council.

